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Current Topics.

The Public Trustee: Annual Report.

FROM THE General Report of the Public Trustee for the year ending 31st March, which has just been published, it appears that the year's working has again been satisfactory, a surplus of £11,185 having been realised. The number of new cases accepted during the year was 1,052, an increase of eighty-seven over the previous year. The aggregate value of new business, including accretions to old trusts, was £13,810,068 as compared with £14,756,253 for the previous year, and £16,176,619 for the year preceding; the average value of trusteeships have dropped from £11,518 to £10,504, and of executorships from £19,495 to £16,371. Of the 1,052 new cases, 620 (or approximately 60 per cent.) were under £5,000 in value, and it is clear that there is no discouragement whatever by the Public Trustee of trusts which are small or moderate in amount. On the contrary, special facilities are, we gather, afforded for their administration. Apart from trusts which the office was not competent to undertake for such reasons as foreign domicile, insolvency, etc., only a very few trusts were refused during the year, and these on the ground alone of impracticability of administration. The total number of cases accepted since the office was instituted is 24,076, of which 7,247 have been completely distributed, leaving 16,829 under administration. The capital value of the funds and lands now under administration is approximately £200,000,000, with an annual income of about £10,000,000. The effect of improved organisation and of a cycle of steady uninterrupted training is that the staff is now handling about half as much work again per head as in 1920. The "prospects of new business" continues to be good, and there is every indication of further progress. We are pleased to note that the demand for the services of the Manchester branch is steadily increasing.

Solicitation to the Annoyance.

A COMMITTEE is to be appointed at an early date "to inquire into the law and practice regarding offences against the criminal law in connexion with prostitution and solicitation for immoral purposes in streets and public places, and other similar offences against decency and good order, and to report what changes, if any, are, in their opinion, desirable." There are several points to which this committee will no doubt direct its enquiries. One is the question of annoyance. Police officers giving evidence have phrases which are common form. "He appeared annoyed," is one of them. When pressed as to what signs of annoyance were observed, one officer will say, "he waved her aside"; another, "he stepped aside"; another, "his face expressed annoyance." In one recent case an officer said a man "looked annoyed." The man in question had actually gone off with the prostitute, and left her after a few minutes' conversation. He may have been annoyed, but it obviously could not have been annoyance at her solicitation. When this was pointed out the officer said, "I concluded he was annoyed." That is the key of the situation. In many cases the element necessary to satisfy the section is inferred and not observed. The whole thing has become highly artificial, and the only honest thing to do, if solicitation is to be punishable, is to make it punishable as such. At present the unfortunate is punished if she fails in her solicitation. Success in her immoral conduct exempts her from punishment. Another matter deserving attention is the curious fluctuation in the convictions in London: 1922, 1,708; 1923, 457; 1924, 823; 1925, 1,359; 1926, 2,042. The year 1923 is the one in which the Commissioner, in his annual report, complained of "the attitude of certain magistrates towards police evidence," and spoke of "the extreme reluctance of police officers to take action which they feel may bring them into collision with the magistrates, the press and the public." A third point deserving consideration is the view generally taken that s. 1 of the Vagrancy Act, 1898, will not cover the case of a man persistently soliciting women for immoral purposes. It is difficult to understand this view. It seems to be based on the fact that the Act was passed to meet one particular form of immorality, but if an enactment is clearly wide enough to include other than the avowed objects of its framers, its genesis and history is not to be enquired into when its interpretation as enacted law is in question.

Certifying the Insane.

TWO POINTS of considerable interest to the medical profession were raised by Mr. Justice MCCARDIE in his judgment in the case of *De Freville* v. *Dill, The Times*, 2nd July. This class of case, dealing with the negligent certification of insanity by medical practitioners, has been much in evidence before the courts of recent years, and public interest has been stimulated by a realisation of the practical importance of the decisions. The first point for consideration was whether, if the cause of action were of the nature of an action on the case, and if there were no express contract between the patient and the doctor, there was a duty of care with respect to certification. That such a duty of care is necessary is irrefutably established by previous binding decisions: *Everitt* v. *Griffiths*, 1921, 65 SOL. J. 395; 1920, 64 SOL. J., 445; 1921, 1 A.C. 631; 1920, 3 K.B. 163; *Harnett* v. *Bond*, 1925, 69 SOL. J. 445, 575; 1925, A.C. 669; *Harnett* v. *Fisher*, 1926, 70 SOL. J. 737, 917; 1927, 1 K.B. 402: *Hall* v. *Semple*, 3 F. & F., 337. There

is, however, the other side of the question to be looked at: would a doctor be equally liable for negligence in not certifying if a patient had been insane and had inflicted injury on himself? His lordship referred to this point, but confined himself to the decisions above mentioned, and held that a doctor owed a duty of reasonable care to the patient. The second point, whether the doctor's certificate was the cause of the detention, is also amply covered by authority, but, were he not so bound, his lordship was of the opinion that the effective cause of the detention was the order of the justice, and not the certificate of the doctor, which, although an essential requirement, had no operative force. Section 16 of the Lunacy Act, 1890, deals with the powers of justices in these cases. His lordship expressed the hope that a clear and final decision on these two points would soon be given by the House of Lords. As matters stand at present, the possibility of being involved in costly and prolonged litigation cannot but deter the doctor from undertaking the responsibilities associated with certification. Further legislation designed to protect the medical practitioner in this class of case would also prove an additional safeguard from the patient's point of view.

Presumption of Survivorship.

THE CASE of *In re Nightingale; Hargreaves* v. *Shuttleworth* (reported *ante*, p. 542), is likely to be the last in which the principle laid down in *Wing* v. *Angrave*, 8 H.L.C. 183—namely, that there is no presumption of law as to survivorship among persons whose death is occasioned by one and the same cause—will be applied. There, in December, 1925, a husband and wife were killed in the same accident, but there was no evidence to show which of the two died first. In those circumstances EVE, J., had no alternative but to apply the *Wing* v. *Angrave* doctrine, with the consequence that the husband's property, he having died intestate without next-of-kin, passed to the Crown. If, instead of happening in 1925, the accident had occurred in 1926, the provisions of s. 184 of the L.P.A., 1925, would have been applicable. That section abrogates the rule in *Wing* v. *Angrave* by enacting that "in all cases where, after the commencement of this Act, two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths shall (subject to any order of the court), for all purposes affecting the title to property, be presumed to have occurred in order of seniority and accordingly the younger shall be deemed to have survived the older." This rule is in accordance with that of the civil law and of the French Code, but not of the German Code, which provides that where several persons have perished in a common disaster, it is presumed that they died simultaneously. Was the change in our law made, one wonders, out of academic zeal for correctness of doctrine, or may there be something in the observation of a learned commentator on the Act of 1925, that "the alteration is likely to increase death duties"?

Co-operative Societies and Gifts for Political Purposes.

IN VIEW of the recent alliance between the Co-operative Societies and the Labour Party, the question was put at a meeting to Sir WALTER GREAVES-LORD, K.C., M.P., whether an individual member of such a society could apply for an injunction against the use of its funds for political purposes. The reply was given that, unless there was anything in the rules of a particular society which allowed money to be used for political purposes, any member could obtain an injunction to restrain such a use of the funds of the society. But if members chose to stay away from meetings and allowed a society to alter its rules they had only themselves to blame. The answer, as became a lawyer, was a careful one, and, for the purposes of it, Sir WALTER assumed that a society might, by a change in its rules (and, it would follow, by its original rules) take upon itself the power to use money for political purposes. It is, however, more than open to question whether either an Industrial Society under the Act of 1893 or a limited company under that of 1908 has any such power. Any money paid to a political fund would either be pure bounty to a non-charitable object, or a disbursement which a judge would have to find, under an "omnibus" clause, was conducive to the welfare of the company or society. A recent example of such a case was *Evans* v. *Brunner Mond & Co. Ltd.*, 1921, 1 Ch. 359, where the company proposed to pay out a very large sum of money for the furtherance of scientific education and research. EVE, J., held that, having regard to the objects of the company, the benefits to it of such expenditure were direct and substantial, and so "conducive to the attainment of the above objects" within the omnibus clause in the memorandum. Bounty to employees, again, or even to their relatives, may be on a similar footing as ensuring better service, see *Henderson* v. *Bank of Australia*, 1888, 40 C.D. 170. A "secret service" fund was, of course, forbidden in *Newton* v. *B.S.A. Co. Ltd.*, 1906, 2 Ch. 378. In *Lockwood* v. *Hop Bitters Co.*, 1886, 3 T.L.R. 698, the gift of a silver trophy worth £1,000 as a challenge cup to the National Rifle Association was held not to be *ultra vires* as a legitimate advertisement. But to sanction a gift to a political party on the ground that it was "conducive to the interest" of a society or company would in effect be to declare that the opposite party's funds were used for purposes injurious to the company or society, a conclusion to which no judge would arrive if he could possibly avoid it.

Set-off against Calls for Shares.

AN INGENIOUS attempt was made in *Alliance Films Corporation Ltd.* v. *Knoles*, *The Times*, 1st July, to avoid the application of the rule that in the winding-up of a company, a contributory may not set-off against a call made upon him in respect of shares a debt owed to him by the company. Section 207 of the Companies Act, 1908, provides for the application of the Bankruptcy rules in the winding up of companies, so that set-off is permitted where there have been mutual credits, mutual debts, or other mutual dealings. The rule is different, however, where it is sought to set-off calls on shares against a debt owed by the company, in the winding-up. In *Re Overend Gurney & Co. (Grissell's Case)*, 1866, L.R. 1, Ch. App. 528, the Court of Appeal held that a shareholder in a limited company who is also a creditor of the company under a contract, is not in the event of the company being wound up entitled to set-off the debt due to him against the calls, nor to set-off against the calls a dividend on the debt which will accrue due subsequently to the date of the call, but that upon payment of all calls due, he is entitled to receive dividends at the same time and at the same rate as the other creditors. Section 165 (3) of the Companies Act, 1908, provides that, in the case of a company, whether limited or unlimited, when all the creditors are paid in full, any money due to a contributory from the company may be allowed to him by way of set-off against any subsequent call. Moreover, it has been held in *Calisher's Case*, 1868, L.R., 5 Eq. 214, that there can be no set-off, even where the call has been made *prior to* and not necessarily *in* the winding-up. Now in *Alliance Films Corporation Ltd.* v. *Knoles*, a call had been made on the defendant prior to the company's going into liquidation, and in an action brought by the company against the defendant to recover the amount of such call with interest thereon, the defendant purported to set-off various sums alleged to be owing to him by the company. In order to avoid the principle of *Grissell's Case* and *Calisher's Case*, it was contended that, inasmuch as the action had been brought in the name of the company, and had not been brought by the liquidator, it was to be regarded as a purely common law action, so that the right of set-off would arise: cf. *Brighton Arcade Co.* v. *Dowling*, L.R., 3 C.P. 175. Mr. Justice ACTON, however, held that the right of set-off did not arise, since, although the action was in form a common law action, it was in substance a claim by the liquidator in the liquidation of the company.

Civil Liabilities arising from Crime.

THE Hon. Mr. Justice WRIGHT presided at the lecture given by Mr. A. S. COMYNS CARR, K.C., in the Gray's Inn Hall, recently, under the auspices of the Solicitors' Managing Clerks' Association. Mr. COMYNS CARR said:—

My Lord, Ladies and Gentlemen: I am very much honoured by being asked to address this association. When I selected the subject in consultation with Mr. Hammond, I must confess that I did not realise that it was such a wide one, as on coming to put together a few notes on the subject for the purpose of this lecture I have discovered that it is, and therefore I shall only be able in the time at my disposal to indicate the general outlines of it, and to deal more particularly with one or two special points. It will be apparent that there are other lines of enquiry which might well be considered to come under the title of this lecture, but which I shall hardly have touched upon.

Civil liabilities arising from crime I suppose may be divided primarily into two—liabilities of the criminal and liabilities of other persons. I will take the criminal first. It is curious how very seldom criminals, whether before or after their crime has been ascertained and pronounced upon in the Criminal Court, are made defendants in civil proceedings to recover damages for the wrongs which they have inflicted. One reason, no doubt, is that it is not very often that a criminal has visible property sufficient to pay damages if they are recovered, but nevertheless there are many cases in which a criminal act gives rise to a civil as well as a criminal liability. It is rather remarkable how seldom it is enforced. Speaking broadly, one may perhaps say that most of the common law crimes, apart from those since created by Statute, and even some of the statutory crimes, correspond from a civil point of view to torts. Crime is the criminal aspect of that which in civil law would be called a tort. That would be a much too general statement, there are many exceptions to it, but if we consider it from that point of view for the moment, we may get some light. If a crime is a tort, and if it produces damage, it would be, of course, actionable as such. There is no reason in the world why a criminal in addition to suffering the punishment of the law for his crime should not also be called upon, if it creates a civil liability, to make good the damage inflicted upon the individual. One may put it in this way broadly: If a crime is a breach of duty owed to an individual it will usually be a tort giving rise to a civil remedy, although it may also be a breach of duty owed to the State giving rise to a criminal remedy. Let us consider a few of the well-known crimes from this point of view. Writers on criminal law generally divide crimes into those which are offences against individuals and those which are offences against the State. It is for the most part among those which are classified as offences against individuals that you will find a corresponding civil liability. Take, for instance, offences against the person, and begin with the most serious and important of all, the crime of murder. You do not often find an action brought by the dependants of a murdered man for damages, but there is nothing to prevent it from being done; indeed, it is provided by Lord Campbell's Act that the dependants of a deceased person can sue the author of the injury for damages notwithstanding that the act is a felony. The practical difficulty in the way arises from the application of the maxim "*actio personalis moritur cum persona*." The difficulty is to catch your murderer unhung and get your judgment before the criminal law has exercised its penalty upon him. Subject to that practical difficulty there is no reason in the world why relatives of a murdered man should not seek compensation from the murderer. Unfortunately unless the murderer has at some time appropriated some of the property of the murdered man, the right thus given does not survive the death of the murderer. After a great deal of judicial controversy it has finally been decided that the death of an individual as such does not give rise to any civil right; for instance, unless you can bring your claim within Lord Campbell's Act, you cannot obtain damages for the death of a person by negligence, being run over by a motor car, or anything of that sort. That was finally decided in the case of *Clark* v. *The London General Omnibus Company*, reported in (1906) 2 King's Bench, at p. 648, after a great deal of controversy, and a very interesting judgment to the contrary by Baron Bramwell, which is well worth reading, but I am afraid must be taken no longer to be the law, because the later decision is a decision of the Court of Appeal. Assaults give rise to civil as well as criminal liability. There is no reason why anybody convicted of any kind of assault should not also be made liable in damages for the wrong which has been done.

I must pass rather rapidly over this part of the subject omitting many examples which might be given. If you take crimes against the property of individuals, you will find that in substance, in the majority of them at all events, those which exist at common law are merely criminal aspects of the civil causes of action, in trespass, conversion or detinue for the most part. There, again, there is no reason why both remedies should not be pursued. The crime of obtaining money by false pretences is merely the criminal aspect of the common law action for deceit. Conspiracy is an indictable offence in most circumstances. The same conspiracy which is indictable and may be the subject of conviction and sentence also gives rise to an action at common law for damages. The same applies to the grosser forms of negligence. Negligence which may be treated as a crime is generally described by that vaguely abusive epithet "gross," but apart from that epithet it is the same thing as negligence which gives rise to an action for damages. Even when you come to offences which criminal lawyers classify as of a public nature, you very often find that they equally give rise to civil remedies, for instance the offences of champerty, maintenance, libel, offences against the Prevention of Corruption Act, many offences against trade and breaches of the bankruptcy law, nuisance, and offences with regard to highways. All of those have their civil counterpart as well as the criminal liability which they produce. On the other hand, there is one more point to be borne in mind with regard to the newer statutory offences. Parliament is constantly busy in digging pitfalls for us to fall into which end in the Police Court, and sometimes even in higher courts of criminal jurisdiction. It does not at all follow that because I have suffered damage by reason of somebody else having committed one of those statutory offences which lands him in a penalty I can recover damages for that in a civil court. The mere fact of a penalty being provided by a statute for breach of a duty which it creates *prima facie* tends to show that that was the only remedy which could be applied for the breach, and that there was no civil liability created, but this distinction, which it is important to bear in mind in that class of case, has been drawn. If the statute was passed, or a particular section of it, for the benefit of a limited class of people, and I am one of that limited class, and have been injured by the breach of the statute, then I have a remedy in damages, but if it was intended for the protection of the public at large, then the fact that a statutory offence is created gives me no remedy in damages, and the penalty is the only consequence of the breach of the statute. If you want to look for illustrations of that rule, you will find on one side of the line *Atkinson* v. *Newcastle Waterworks*, 2 Ex. D. 441, where it was held that a statute which required a water company under penalty to provide a sufficient head of water for the use of the local fire brigade, gave no right of action to the unfortunate individual whose house was burnt down because there was not enough water to put out the fire. The principle was, that the duty to provide water was not imposed for the benefit of any particular class of individuals, and the man whose house was burnt down therefore could not bring himself within the rule; but, on the other hand, cases such as *Butler* v. *Fife*

Coal Company, 1912, A.C. 149, which was a case of a civil liability held to arise out of a breach of duty imposed with regard to the safety of coal mines, is an illustration of the opposite rule, because the coalminer in that case, who was injured in consequence of a breach of the statutory duty of the coalowner, was one of a limited class, for whose protection and benefit the statute was designed, and it was therefore held that he was entitled to damages for breach of that statute. Although the statute mentioned only a penalty recoverable in a court of summary jurisdiction, that is to say, a fine, nevertheless the miner could recover damages for breach of that duty, and free from any of the ordinary considerations of common employment and so on, which might otherwise have hindered his right. You will find the whole subject very recently discussed in the case of *Hemmings* v *Stoke Poges Golf Club*, 1920, 1 K.B. 720, where the Court of Appeal decided that a person who was not tenant of a house and without any right to be there could not recover damages for his forcible ejectment by the true owner, in spite of the fact that the forcible entry into the house was a criminal offence against a statute of the reign of Richard II.

There is one question which is commonly raised with regard to civil actions against criminals in respect of their crimes, that is whether it is first of all necessary to prosecute a criminal to conviction. I think it is the common impression that that is so, but it is very doubtful whether any such necessity exists, and certainly it is only in a very restricted class of case that it would apply to interfere with the civil right. The rule certainly cannot be put higher than this, that if the plaintiff by his own case discloses a felony committed by the defendant, or some person such as the defendant's partner for whom the defendant is responsible, and if the plaintiff could have prosecuted it with due diligence, and if he had the duty to prosecute (which nobody has ever defined), then the plaintiff, if he brings his action, and all those things appear, will find that his action is stayed till the prosecution has taken place. It is not a bar to his action, but it will be suspended until he has exercised his public duty. You notice, therefore, that this rule, which I think deters a good many people from taking proceedings in such cases, does not apply to misdemeanours at all, only to felonies. It does not apply if the plaintiff can prove his case without proving the felony. It does not apply between two parties who have nothing to do with the felony; it only applies if the defendant or his agent was the person who committed the felony. It does not apply if the plaintiff has no duty to prosecute, as to which various examples have occurred, and, as I say, nobody has defined precisely who are the people who have the duty to prosecute. It does not apply if the felon is dead or has escaped. If you want to investigate further the limits of this rule, if any, you will find that the best cases on the subject are *Stone* v. *Marsh*, 6. B. & C., 551; *ex parte Ball*, 10 Ch. D., 667; and *Osborne* v. *Gillett*, L.R., 8 Ex. 88; which happens also to be the case containing the judgment of Baron Bramwell to which I referred throwing doubt upon the proposition that the death of an individual can give no cause of action.(1)

Now I come to what is probably the more important half of the subject, namely, actions against third parties arising out of crime. One would think it is clear enough that a person who is himself a party to a crime or who derives his alleged right through a crime of which he was aware at the time when he derived it, can have no right, although it is very often an important and difficult question to decide on whom is the onus of proving whether the person who claims did or did not know of the crime when he acquired his right. You will find that the governing consideration with regard to that is this: If the person who sets up the claim would have his right but for his knowledge of the crime, then it is upon the other party to prove that he knew of it. If, on the other hand, he has no right at all, unless he can bring himself within some statutory exception, and the statutory exception is conditional upon his not having notice of the crime, then it is for him to prove affirmatively that he did not have such notice. Before I pass from this seemingly obvious proposition, I might, perhaps, be allowed to give you, as illustrating the effect of crime upon civil rights and liabilities, two curious points. In the case of the *Republic of Guatemala* v. *Nunez*,(2) which I think, is not yet reported, at all events, in the Law Reports, there was raised, but not decided, the curious question, when is a forgery not a forgery. It arose in this way. Perhaps, some day the question may be of sufficient importance to be decided. A, wishing to transfer some property by an instrument to B, and knowing of a possible claim by another party, whom I will call C, which he wished to defeat, fraudulently ante-dated his document, the date being of great importance in C's possible claim. He thereby committed the offence of forgery under the Forgery Act, 1913, which makes it a forgery to put a false date on a document if the date is material. Afterwards the title to the property was disputed, not by C, the man whom he had in mind, but by a different person, D. With regard to D's claim, the date was immaterial. The question then arose (the case went on other grounds, so this particular question was never decided) whether a document which is a forgery at the time it is made or constitutes an offence against the Forgery Act at the time it is made by reason of the false date, which was thought to be material against the claim which the maker of it had in mind, can be said not to be a forgery asagainst another person with regard to whom the date is immaterial. Confiicting opinions were expressed on the subject from the Bench. It is an interesting problem which may have to be determined some day.

Let me give another illustration of the way in which the criminal law may affect civil liabilities when persons seek to establish rights by reason of what may, or may not, be described as crimes. It is a very well-known case, which I venture to think, if it were ultimately taken, or if a simiilar case were ultimately taken to a higher tribunal, might be reconsidered and a different conclusion arrived at from the one which now prevails. It is the case of *Hyams* v. *Stuart King*, 1908, 2 K.B. B. 696, which decided that you can recover what was originally a gaming debt in spite of the Gaming Act, if you create a new consideration by threatening to post the man who does not pay gaming debt as a defaulter and thereby compelling him by his fear of that threat to undertake to enter into what is called a new contract to pay the debt. I think a good many actions have proceeded upon the authority of that case since it was decided. The point which was discussed in it, and which, I venture to suggest, if it were reconsidered, might be held to be fatal to the decision is this: How can you make a contract which is illegal for apparently the most obvious reason, that it is contrary to the Gaming Act, legal and enforciable by introducing into it the element of blackmail? That was, indeed, considered in the decision and Lord Justice Fletcher-Moulton, who dissented from the decision, did so on that express ground, that you could not make a thing legal by blackmail. Another of the Lords Justices, Lord Gorell, I think, did not deal with the point at all. If you look at the judgment of Lord Justice Farwell, you find this interesting fact, that approaching the matter from the point of view of chancery experience, he looked for the definition of "blackmail" in the Oxford Dictionary, instead of in what criminal lawyers, such as myself, used to call the statute in such case made and provided. If he had looked there, he would have noticed that anybody who, with intent to extort any valuable thing, directly or indirectly threatens to print or publish or to abstain from printing or publishing any matter or thing touching any person, is guilty of the offence which is commonly and vulgarly known as blackmail. How it can be said that a bookmaker who threatens to post a defaulter in some sporting club is not within the words of that statute, whatever he may be in

(1) Reference may also be made to the more recent case of *Smith* v. *Selwyn*, 1914, 3 K.B., 98.

(2) See 71 Sol. J. 35—*Ed. Sol J.*

the view of the Oxford Dictionary, I find it difficult to understand. It would be interesting if that decision, which has been used by bookmakers *in terrorem* for a number of years past now, were to be reconsidered on those lines. One of the advantages which you confer upon a member of the Bar by inviting him to address you on these occasions, is that it gives him an opportunity of saying what he really thinks about decisions which, in other places, he has to treat with some respect!

(To be continued.)

Diplomatic Privileges and Immunities.

THE GERMAN EMBASSY CASE.

An interesting decision was given by the Court of Appeal on the 23rd June, in the case of *Musmann* v. *Engelke*, 71 Sol. J. p. 561, which, though arising upon an interlocutory order, deals with a point of importance.

The defendant, being sued for the rent of a house at Hampstead, entered an appearance under protest and then took out a summons to set aside the writ on the ground that, being a member of the staff of the German Embassy, he was entitled to diplomatic immunity and could not be sued. He supported this application by an affidavit, and the plaintiff applied for an order for his cross-examination upon this affidavit with a view, doubtless, to ascertaining the precise nature of his employment. Shearman, J., made the order, and the Court of Appeal, by a majority (Scrutton and Sargant, L.JJ., the Master of the Rolls *dissentiente*), dismissed an appeal from this order.

Before examining the details of this case, we may, perhaps, recall certain principles which, in the course of the last two centuries, have become well established in our jurisprudence. (We need only deal with immunity from civil proceedings, as no criminal liability was here in question.) The first is, that an ambassador and the diplomatic members of his staff are immune from civil proceedings unless the Government, whose servants they are, chooses to waive the immunity in a particular case (for the immunity is not their personal privilege, but a privilege accorded to their State). This privilege exists at common law, though it is strongly reinforced by the declaratory Diplomatic Privileges Act, 1708, passed in order to placate the Tsar Peter when his ambassador was dragged out of his carriage by sheriff's officers and committed to prison for debt. The Tsar Peter was furious when the incident took place and demanded the utmost penalties upon all parties concerned, but their prosecution by the Crown degenerated into a lengthy legal argument, and they were eventually discharged. The same Act provides for the registration of the ambassador's servants with the Foreign Office; whether or not this provision applies only to his domestic servants, and not to the superior staff engaged in diplomatic work, is not clear, but, at any rate, in practice, the names of the members of the diplomatic staff are submitted to and registered with the Foreign Office. The reason underlying this privilege of the ambassador and his staff is alternatively stated in two ways; either that it is essential to the due discharge of the diplomatic mission that they should not be interrupted by compulsory visits to the local courts of law, or that in virtue of their character in representing a foreign State, they are like the State itself, withdrawn from the sovereignty of the country to which they are accredited. Whatever the reason be, their immunity has long been recognised; as Grotius put it, *omnis coactio a legato abesse debet*.

The second principle is that consuls and their staffs are upon an entirely different footing. They are, as Hall says, in his *International Law*, entitled to "some ill-defined amount of respect and protection," but they are emphatically not immune from civil or criminal proceedings, and have repeatedly been sued and prosecuted in English courts; we need only mention *Barbuit's Case*, in 1737, and *Viveash* v. *Becker*, in 1814 (3 M. and S. 284, Lord Ellenborough, C.J.). American decisions are to the same effect.

Now, to return to the case of Herr Engelke. His name appeared in the list of persons comprising the staff of the German Embassy submitted to the British Foreign Office, and he produced a certificate of the Foreign Office to that effect. It seems that he was a "consular secretary," and that, there being no German Consulate in London, he was, geographically speaking at any rate, employed at the German Embassy. Whether as a "consular secretary" he was engaged upon purely consular work or in addition discharged diplomatic duties was doubtless one of the points which his cross-examination would have elicited, but it was contended on his behalf that the certificate of the Foreign Office (granted on the request of the German Ambassador) was conclusive, and that the court could not go behind it or question it.

This brings us to a third well-established principle. It has been held time after time that whenever the status of a foreign sovereign, state or government is in question in an English court, this is purely a matter for the executive which communicates its decision to the court by certificate, by letter, or through the mouth of the Attorney-General, and the court thereupon automatically acts upon this statement. We may mention *Mighell* v. *Sultan of Johore*, 1894, 1 Q.B. 149; *Nuther* v. *Sagar & Co.*, 1921, 3 K.B. 532; and, more recently, in the House of Lords, *Duff Development Co.* v. *Kelantan Government*, 1924, A.C. 797. Does this principle of the conclusiveness of the statement of the Executive (in this case the Foreign Office) apply to the case of a person alleged to be a member of a diplomatic staff? The Master of the Rolls, in his dissenting judgment, felt himself unable to see why the certificate should be conclusive in the one case but not in the other. He cited *In re Suarez*, 1918, 1 Ch. 176, where a certificate of the Foreign Office to the effect that a defendant had ceased to be the minister of a foreign government was accepted as sufficient. But that case is not this one, for, as Scrutton, L.J., himself admitted, the Foreign Office might well know who was and who was not the accredited representative of a foreign government, but that was quite a different thing from being expected to know the internal arrangements of every embassy in London. Although the Attorney-General himself appeared in this case to support the conclusiveness of the certificate of the Foreign Office, Scrutton and Sargant, L.JJ., declined to extend the principle of conclusiveness, and thus allow yet another matter to be withdrawn from the judiciary and transferred to the discretion of a government department. With great respect, this view appears to us to be right. For two centuries at least the common law courts have recognised and protected the special status of ambassadors and their diplomatic staffs, and have felt themselves competent to decide as a question of fact in each case whether a particular defendant is or is not a member of a diplomatic staff. We believe it to be correct to say that registration with the Foreign Office has never been regarded as a conclusive test of a defendant's status. It is a highly convenient but subsidiary piece of machinery, and that is all. We are not impressed by the analogy of the conclusiveness of an official certificate as to the status of a foreign government or state. That is a matter which intimately affects the diplomatic and political relations between His Majesty's Government and the foreign government in question, and in such a matter it is essential that the Executive and the Judiciary should adopt the same view.

Some Legal Aspects of Town Planning.

By RANDOLPH A. GLEN, M.A., LL.B.
(*Editor of "Glen's Public Health," 1925 Edition.*)

(*Continued from p. 479.*)

VII.

The following are the remaining observations of the Minister of Health upon the Sevenoaks (Urban) Town Planning Scheme, which formed the subject of my last article:—

As to "*height*," the observations were somewhat different from those on the Sidcup scheme.(1) They were as follows: "The Minister could not regard as reasonable for the purposes of section 11 (2) of the Town Planning Act, 1925, so tight a restriction as the proposed limitation of the height of all buildings in the residential areas to 35 feet measured to the eaves, and he suggests that the proposals of the Council should be amended to provide for an over-all height limit of 60 feet, coupled with a provision that no dwelling-house should contain more than three storeys, exclusive of any storey constructed wholly or partly in the roof and of any storey the floor of which is more than 6 feet below the mean level of the centre of the street in front of the building."

As to "*open spaces*," the Minister said, with regard to "Vine Cricket Ground," that he "gathers that this land is an existing public open space as indicated on the Map. The reference to the open space should therefore be omitted from the Schedule in the Preliminary Statement." Why an existing public open space should not be permanently "earmarked" for that purpose, I do not understand. I thought that one of the objects of town planning was to prevent the use for building purposes of land which it was desirable to preserve for ever as an open space. This particular "observation" seems not to fit in with the one below with regard to the existing cemetery which is made under the heading "cemetery extensions," or even with the observations under the heading "further public open spaces" which are as follows: "It is observed that only one area of land is proposed to be reserved for new public open spaces. The Minister would urge the Council to consider the question of reserving further lands for public open spaces and pleasure grounds during the preparation of the draft scheme. He would point out that one of the objects of town planning is to prevent, by the timely assignment of suitable lands likely to be acquired for public open spaces, any development of the lands which would materially add to their value pending acquisition or involve the execution of expensive works when the lands come to be converted to their intended use. The Minister also suggests that the Council should consider during the preparation of the draft scheme whether the present time is not opportune for selecting lands to be reserved for playing fields. He realises that it will often be more convenient to make provision for smaller playing fields and playgrounds in the actual course of development when they can be more readily adjusted to the detailed site planning of the particular neighbourhood and so arranged as to avoid interference with building frontages. He considers, however, that where a demand for larger playing fields exists or may confidently be anticipated and in some cases also in the case of smaller playing fields or playgrounds (e.g., in the neighbourhood of existing development or in parts of the area where early development is expected, if lands well adapted and suitably located for the purpose can be selected at the present stage), it would be prudent to provide for the reservation of such lands in the scheme itself." This last observation should be compared with the one on the Sidcup open space proposals which was rather to the contrary effect.(2) With regard to Knole Park, the Minister said: "It is observed that the owner does not press his objection to the proposed private open space at this stage on the understanding that he will not be prevented from objecting at the next stage if he is advised to do so. It is presumed that, in view of the omission of" the proposed road through the park "the site of the street where it crossed the private open space should be included in the open space."

As to "*cemetery extensions*," it was suggested that the land north and west of the cemetery in Seal Road "should be distinguished on the Map by yellow colouring and green dotted edging as land proposed to be reserved for cemetery purposes. It is also suggested that the existing cemetery might be coloured yellow and edged green." As to the land on the west of the cemetery, the Minister said: "It is understood that this land is in the possession of the Council and used temporarily for allotments, but that the intention of the Council is that the land should be ultimately used for cemetery purposes. It is suggested therefore that the land should be coloured yellow and edged dotted green as land reserved for cemetery purposes."

As to "*allotments*," the Minister "suggested that the Council should consider the question of reserving further lands for allotments. In this connection reference is made to section 3 of the Allotment Act, 1925, which makes it incumbent on a local authority preparing a town planning scheme to consider what provision ought to be made therein for permanent allotments. The Minister will require to be satisfied before approving the scheme that adequate provision for the purpose has been made where practicable."

As to "*interim development*," the Minister announced that "it is contemplated that on the approval of the Preliminary Statement by the Minister an order will be issued under section 4 of the Town Planning Act, 1925, similar to the Town Planning (General Interim Development) Order, 1922, but providing that any requirements made by the Council as a condition of permission for development shall be in general conformity with the proposals in the approved Preliminary Statement so far as they relate to matters dealt with in the statement." Section 4 provides that "the Minister may by special or general order" deal with "the development of estates and building operations" pending the making of schemes, and the above observation indicates that the Minister proposes to make a "special" order in connection with the Sevenoaks Scheme.

I hope to be able to deal next week with the observations of the Minister on the rural branch of this joint scheme.

(*To be continued.*)

(1) See *ante*, p. 441, col. 1, middle.
(2) See *ante*, p. 441, col. 1, bottom.

Commissions of Sewers.

By ALEXANDER MACMORRAN, M.A., K.C.

(*Continued from p. 512.*)

II.

Section 38 of the Land Drainage Act 1861 provides as follows: "The following regulations shall be observed with respect to rates leviable by commissioners of sewers, that is to say:—First, as to the purposes of the rate: Rates may be levied by commissioners of sewers for defraying all costs, charges and expenses incurred or to be incurred by them under the authority of any Act of Parliament, law or custom. Second, as to the incidence of the rates: A rate levied by the commissioners for the purposes of defraying the expense of any improvements in existing works or any new works, where such improvements or new works involve an expenditure of more than £1,000, shall be deemed to be a special rate and shall be deemed to be a tax on the owners of property, but, except such special rate, rates leviable by the commissioners shall be payable by the same persons in respect of the same property in the same manner as they are now by law payable."

The section further provides that nothing therein contained shall affect any agreement between landlord and tenant. The net result of these enactments appears to be that except with regard to the special rate already mentioned, the commissioners must defray their expenses out of rates made in the ordinary way on the occupiers of property in the first instance, and this naturally leads to the consideration of the question what lands are rateable. Now the commission defines the area within which the commissioners are to exercise jurisdiction, but it does not follow that all the occupiers of property within that area are liable to be rated. The liability to contribute to a sewers rate depends solely on the principle of benefit, and when the benefit ceases the liability also ceases. In the words of CALLIS: "All such which reap profit or sustain damage shall be assessed," and this means that an occupier of land is not liable to be rated unless his land derives some special benefit from the works of the commissioners in some way.

On this point reference may be made to two old cases. In *Masters* v. *Scroggs*, 3 M. & S. 447, it was held that commissioners of sewers cannot assess a person in respect of drains which communicate with other drains that fall into the great sewer if the level of his drains is so much above the sewer that the stopping of the sewer could not possibly throw back the water so as to injure his premises and if he be not and it does not appear that he is likely to be benefited by the works likely to be done to the sewer. The other case is *Stafford* v. *Hamston*, 2 B. & B. 691. It was there held that the decree of the commissioners of sewers was not conclusive against a party residing within the district over which they presided, but such party may prove, in an action brought against the defendant for taking his goods to satisfy the rate, that he derives no benefit from the sewer on account of which he is rated.

In this connexion reference may be made to the appeals to Quarter Sessions brought by persons rated under the Ouse Drainage Act (the Drainage Order) 1920, now about to be repealed. Under that order the district under the jurisdiction of the commissioners embraced practically the entire water-shed of the River Ouse and its tributaries. Under the order the district was divided into areas, and these again into sub-areas, and provision was made for the rating of various areas and sub-areas in certain stated proportions. It was held by the Courts of Quarter Sessions that the question as to the benefit to be derived from the works became immaterial having regard to the fact that the statute expressly made the occupier of each area or sub-area liable to pay a fixed proportion of the rate. It will be seen that this implied a recognition of the general principle, although it created an exception from it. It is said that the benefit need not be immediate, and that the quantum of benefit is a question for the commissioners, and, further, that rateability once established, no question as to the amount of the benefit based on the particular use to which the property has been applied can arise. The law is thus stated in "Kennedy and Sandars on Land Drainage."

The Bill of Sewers which, as already stated, sets out the form of commission, provided for the taxation or assessment of persons benefiting after the quantity of their lands, tenements and rents, by the number of acres and perches, after the rate of every person's portion, tenure or profit, etc. This seemed to point to the rate being in the nature of an acreage rate, but in one well-known case, *Griffiths* v. *The Longdon and Eldersfield Drainage Board*, L.R. 6 Q.B. 738, Lord BLACKBURN said: "An objection was made which I may dispose of at once. It was said that if this was a rate under the Land Drainage Act it ought to be an acreage rate, that is, the persons assessed ought to be rated according to the extent of their land and not according to its value. But this objection seems to be quite untenable, for the Sewers Act, 32 Henry VIII, ch. 5, has always received the construction that the rate is to be levied upon those who are benefited by works according to the value of their properties, and it would be unjust if the construction of the Act were to be that the rate was to be levied according to the superficial extent of the land benefited by the drainage and not according to its value." It would appear, however, that this is no longer the law, for by the Land Drainage Act, 1918, s. 4, it is provided that the powers of a commission of sewers or of a drainage board shall include, and shall be deemed always to have included, powers of levying drainage rates on the basis of acreage or on the basis of annual value of the lands liable to be rated. The same section also provides that an order made under the Act may provide for differential rating of part of any drainage district or any area within the limits of a commission of sewers and for total or partial exemption of buildings, railways, canals, inland navigations or any special class of land within the district or area.

A Conveyancer's Diary.

Annual Report of The Law Society: Suggested Amendments of the Law of Property Acts.

Comment may be made upon two important passages contained in the Annual Report presented last Friday to the general meeting of the members of The Law Society (71 SOL. J., p. 545). The first of these passages reads as follows:—

> "During the past year several further suggestions have been made to the Council for amending the Law of Property Acts. The Associated Provincial Law Societies passed a resolution that registration and searches in London in respect of provincial transactions are an unnecessary burden. They pressed for the restoration of the doctrine of notice which had worked satisfactorily in the past and had enabled conveyancing transactions to be carried out with speed, simplicity and cheapness.
>
> Several firms of London members sent to the Council a letter of petition urging that the law should be amended so as to exclude restrictive covenants from the scope of s. 10 of the Land Charges Act, so far at all events as regards small plots of building land adapted for single dwelling-houses.

We must at once state that we believe that the requirement of registration of land charges in respect of post-1925 restrictive covenants may, in many cases, and particularly in the cases mentioned in the second of the paragraphs quoted above, lead to a good deal of inconvenience and to a certain amount of hardship. Our difficulty, however, is to suggest a scheme to replace the present one and which will be general in its application as well as workable in practice. Suggestions have been made for extending the operation of s. 183 of the L.P.A., 1925, to the wilful suppression of a restrictive covenant: see "A Conveyancer's Diary," 70 SOL. J., 1018. Another suggestion has been put forward for the endorsement of a memorandum in a prescribed form on the conveyance of a legal estate in land intended to be affected by a restrictive covenant or on some document of title relating to such land and retained by the covenantor. In default of such endorsement, registration of a land charge would be necessary to give effective notice of the restrictive covenant to a subsequent purchaser of the legal estate in the land. Provision would be made for fixing the costs and expenses of a memorandum of this kind on the covenantor or covenantee according to the circumstances in which the endorsement was actually made.

It is clear that there cannot be a return to the old system of notice, this would involve the bringing of equitable interests on to abstracts of title relating to legal estates.

The great drawback to this suggested plan is that it would, in effect, merely provide an alternative or optional scheme. At a time of transition clear cut schemes are infinitely preferable. Alternatives are apt to lead to confusion.

Further there seems to be a general disinclination in authoritative quarters to make any extensive alterations in the Acts before they have been given a fair trial over a reasonable period of time. It appears also that this view is gaining ground generally in the profession.

The other passage contained in The Law Society's Report states that :—

> "More recently the Associated Provincial Law Societies passed a resolution that it is desirable to alter the recent Acts so that on the death of a tenant for life the settled land shall automatically, without Probate or Letters of Administration, become vested in the Trustees of the Settlement."

Were this suggestion acted upon, the underlying scheme of the Acts would clearly be upset; for how otherwise could the consent of the Inland Revenue Authorities be obtained to the new practice of conveying the legal estate in land to a purchaser clear of death duties? It seems clear therefore that the suggestion made by the Associated Societies has no chance of being adopted in any amending Act. There would be nothing in writing to evidence the transfer of the legal estate: one might as well cry for the restoration of shifting uses. On the death of a trustee stockholder representation must be taken out to his estate. Why should there be any distinction on the death of the estate owner of settled land?

Landlord and Tenant Notebook.

A case of some importance, *Richards* v. *Pryse*, 1927, L.J. C.C.R. 34, was recently before the Court of Appeal, and it raised the question as to the meaning of the expression "landlord" in s. 57 of the Agricultural Holdings Act, 1923.

Who is a Landlord within s. 57 of the Agricultural Holdings Act, 1923?

"Landlord" is there defined as meaning "any person for the time being entitled to receive the rents and profits of any land.'"

The material facts of *Richards* v. *Pryse* were shortly as follows: The respondent Pryse, who was the landlord of an agricultural holding, agreed to sell the holding to one Cruikshank. Under the conditions of sale the purchase money was to be paid on the 27th day of October, 1924, on which day the purchase was to be *completed*, and it was further provided that all rents and periodical outgoings were to be apportioned up to the *completion* and added to or deducted from the purchase money as the case might require.

On the 23rd September, 1924, the respondent Pryse gave the appellants, who were tenants of the holdings, notice to quit the holding on the 29th September, 1925, and a footnote signed by Cruikshank was appended to the notice, to the effect that the notice was given at his (Cruikshank's) request, and that so far as he was interested in the property comprised therein, he confirmed the same.

Payment of the purchase money was not made on the stipulated date (27th October, 1924), but a sum of £300 was paid as a deposit on account on the 22nd January, 1925, and the balance was paid on the 6th October, 1925, so that the purchase was not completed until some time after the date of the tenancy. In these circumstances the question in issue was whether Pryse or Cruikshank was to be regarded as the "landlord," who was liable to the tenant for compensation.

The learned county court judge held that the respondent Cruikshank was the "landlord," and he based his decision on the view, which he took that for the purposes of apportioning the rents and profits, "completion" in the conditions of sale referred to the stipulated date of completion, and not to the date on which the sale was actually completed.

On appeal, however, the court of Appeal reversed the decision of the learned county court judge on the ground that the word "completion" had to be construed in its ordinary meaning, as referring to the date of actual completion. The Court of Appeal accordingly held that the respondent Pryse and not the respondent Cruikshank was to be regarded as the "landlord" for the purpose of compensation.

It may be of advantage to examine some of the previous cases in which the meaning of the expression "person for the time being entitled to receive the rents and profits" has been considered.

Person for the time being entitled to receive the Rents and Profits.

In *Tombs* v. *Turvey*, 1924, L.J., K.B., at p. 787, Bankes, L.J. pointed out that the person for the time being entitled to receive the rents and profits means the person so entitled *as between landlord and tenant*, and that there were three ways in which a person might claim to be entitled to rent from another person, i.e., in law or in equity or under s. 10 of the Conveyancing Act, 1881 (now embodied in the L.P.A., 1925. This provision deals with the annexation of the rent and covenants by the lessee to the reversionary estate). In order to determine this question, however, it will be necessary in each case to refer to the terms of the agreement between the vendor and purchaser of the reversionary estate.

In *Tombs* v. *Turvey* the material facts were that in May, 1922, the landlord had contracted to sell the holding, subject to the tenancy of the respondent, which was due to expire on the 29th September, 1922, completion to take place on 29th September, 1922. There was a general condition that current rents should be apportioned, but this was qualified by a special condition that any rent payable on 29th September was to be deemed "current rent" and was to be payable by the purchaser on completion.

It was held that as the purchaser was not entitled, as between himself and the tenant to the rent due on the 29th September, the vendor and not the purchaser was to be regarded as the "landlord."

Reference again may be made to *Bradshaw* v. *Bird*, 1920, 3 K.B. 144. There the landlords of a holding had given notice in 1917 to a tenant to quit at Michaelmas, 1918, with a view to the sale of the holding. On 16th October, 1917, a contract of sale was entered into by them, the date named for completion being the 25th December, 1917, from which date the purchaser was to be entitled to the rents and profits, and in the event of completion being delayed the purchaser was to pay 5 per cent. on the purchase money. On 5th July, 1918, the tenant gave to the purchaser notice of intention to claim compensation. The sale of the holding was not completed until July, 1918.

The Court of Appeal held that the purchaser was to be regarded as the landlord, since at the time when the notice was given by the tenant he was the person entitled to the rents and profits.

The effect of a contract of sale has thus been explained by Jessel, M.R,, in *Lysaght* v. *Edwards*, 1877, 2 Ch.D. at p. 506. "It appears to me," said the learned M.R., "that the effect of a contract of sale has been settled for more than two centuries; certainly it was completely settled before the time of Lord Hardwicke, who speaks of the settled doctrine of the Court as to it. What is that doctrine? It is that the moment you have a valid contract for sale, the vendor becomes in equity a trustee for the purchaser of the estate sold, and the beneficial ownership passes to the purchaser, the vendor having a right to the purchase money, a charge or lien on the estate for the security of that purchase money, and a right to retain possession of the estate until the purchase money is paid, in the absence of express contracts as to the time of delivering possession."

It would seem, therefore, that in the absence of some express stipulation to the contrary, the purchaser is the person who at any rate in equity becomes entitled to the rent and profits which accrue due subsequently to the date of the contract for sale. Thus in *Bradshaw* v. *Bird*, the court treats the purchaser as having become entitled to the rents and profits as from the 16th October ,1917, the date of the contract of sale (cf. per Bankes, L.J., *Bradshaw* v. *Bird*, 1920, 3 K.B. at p. 148).

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

UNDIVIDED SHARES—HELD BY TRUSTEES ON 1ST JANUARY, 1926—TITLE.

854. *Q.* In the case put in *Q.* 853, the purchase-money has been paid to the two sons (with the consent of the trustees) and the purchaser has taken possession. I agree with your view that the case falls within the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4), and apparently the two sons can appoint themselves as trustees in place of the Public Trustee and then can sell the property to the purchasers. As representing the purchasers, would you advise that the trustees should be made parties to the purchase deed?

A. On the opinion given in the answer to *Q.* 853, the joinder of the trustees of the will is superfluous, because the sons or their appointees have full power to sell the property to the purchasers. It may perhaps be arguable, however, that the assent by the executors to the devise of undivided shares did not divest them of the legal estate in the entirety, and, if this were the true view, the case would fall under para. 1 (1), and the trust for sale would be vested in them. On this view the joinder of the trustees might preclude a requisition so based.

"OPEN SPACE"—L.P.A., 1925, 1ST SCHED., PT. V, PARA. 2—DOMINANT TENEMENTS NOW VESTED IN ONE OWNER—SALE—PROCEDURE.

855. *Q.* A piece of freehold land, D, forming a private enclosed common yard lying between three freehold properties, A, B and C (in the owners of which it was on 31st December, 1925, vested in equal undivided third shares) is vested in the Public Trustee under para. 2 of Pt. V of the 1st Sched. to the L.P.A., 1925, on the statutory trusts which can only be executed with the leave of the court. N W, as the sole legal and beneficial owner of A, B and C, is now the only person who has any right of access to and/or user of D; N W alone is also now absolutely and beneficially entitled to the entire proceeds of sale to D. N W will probably pull down the old buildings on A, B and C and erect one building on A, B, C and D. Before 1926 N W's title would have been straightforward and flawless. What is the simplest and cheapest method of ousting the Public Trustee and of vesting D in N W absolutely?

A. An application to the court under para. 3 appears to be here inevitable before the Public Trustee can be divested in favour of NW, but, on proof of title, doubtless there would be an agreed order for the Public Trustee to convey to NW, who would acquire a good title under s. 204 (1).

WHETHER STATUTORY VESTING PROVISIONS UNDER THE L.P.A., 1925, 1ST SCHED., PT. II, ARE "DEVOLUTIONS" WITHIN A COVENANT TO REGISTER (OF LESSEES' INTERESTS).

856. *Q.* Settled Land Act trustees purchased, some years ago, in their own names, 111 separate leases of houses. Each lease contained a clause as enclosed. Prior to the 1st January, 1926, on any appointment of new trustees, the deed of appointment was registered with the lessors as an instrument of devolution of the lessees' interest, and a fee of 10s. 6d. was paid in respect of each of the 111 houses. On the 1st January, 1926, the whole of the leases became vested in the tenant for life by statute. The lessees contend that there is, therefore, no "instrument of devolution" which they can produce, and therefore no fee is payable. The lessors, on the other hand, say:—"The vesting of settled property in a tenant for life under the L.P.A., 1925, is an incomplete devolution since, under s. 13 of the S.L.A., 1925, the property cannot be dealt with by the tenant for life until the execution of a vesting deed. (See "Wolstenholme," 11th Ed., Vol. I, note on p. 493). The vesting deed is therefore 'the instrument of devolution' and accordingly requires registration under the covenants in the leases." Who is right, please?

Each lease contained the following clause:—"And will within one calendar month after every devolution of the Lessee's interest in or assignment or demise of the said premises or any part thereof (except any demise for a term not exceeding twenty-one years in possession) give notice in writing of such devolution assignment or demise and of the name or names and place or places of abode of the assignee or lessee or lessees to the lessors or the solicitor for the time being of the lessors and produce the instrument of such devolution assignment or demise to such solicitor for the purchase of registration and will pay him the fee of ten shillings and sixpence for such registration."

A. The point is, perhaps, a nice one, but the opinion is here given that settled land could not devolve on the special personal representatives of a tenant for life under the A.E.A., 1925, s. 22 (1), unless it had previously devolved on the tenant for life. The devolution to the special representatives takes place whether there has been a vesting deed or otherwise, and the conclusion is that it does so as the result of the two devolutions, though, for the exercise of powers under the first devolution by the tenant for life, the vesting deed is necessary. This view appears to be taken by the editors of the "Annual Practice," see note to O. 17, r. 2. The "instrument of such devolution" within the covenant, therefore, is the L.P.A., 1925, which it is out of the power of the trustees to produce, and they are excused from doing so accordingly (and from paying for registration).

UNDIVIDED SHARES—TITLE.

857. *Q.* Testator, A, died in 1904. He appointed W and M executors and trustees, and gave his trust estate to them "Upon trust for all his six named children in equal shares as tenants in common." There was no trust for sale. The trustees were directed to hold the share of each child upon trust to pay the income to such child for life in the case of sons with a gift over in case of bankruptcy, and at the son's death to hold the share for his children (the testator's grand-children) absolutely. M died in 1914, and one child, in 1915, but such child's share has never been paid out owing to certain difficulties in realising the estate. The trust estate consists of stocks, shares, and certain leasehold properties. W now wishes to appoint new trustees and to retire from the trust. He contends that the trust estate, including the leasehold properties, is vested in him as trustee for sale, under s. 36 of the S.L.A., 1925. Is his contention correct, and will a single deed of appointment of new trustees complete the transaction?

A. Presumably the share of the child, who died in 1915, was held on trust to divide absolutely (though the trusts of the testator's daughter's shares are not stated). If so, the entirety of the leasehold was not settled land within the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (3), and the case appears to have been one falling within para. 1 (1) rather than the S.L.A., 1925, s. 36, though the conclusion is the same, namely, that W holds on trust for sale and may retire and appoint two new trustees under the T.A., 1925, s. 36, assuming

the will does not vest the power of appointment in some other person.

INTESTACY BEFORE 1926—LEASEHOLDS—SALE BY ADMINISTRATRIX—TITLE.

858. *Q.* A died in October, 1920, intestate, leaving an estate, consisting of (*inter alia*) two leasehold cottages. In November, 1920, letters of administration were granted to B, the widow of intestate A. In 1927 one of the leasehold cottages was sold for £300. Can B assign the property as sole personal representative of A, as contended by the solicitors for the vendor? If not, what steps are necessary to put the title in order?

A. If the word "assent" in the A.E.A., 1925, s. 36 (6) includes pre-1926 assent, the contention of the vendor's solicitors is well founded, provided, of course, that there is a recital negativing assent in the conveyance. *Primâ facie*, however, "assent" means post-1925 assent, see sub-s. (12), though "conveyance" in the second paragraph of sub-s. (6) would apply to any post-1925 conveyance. The point in the absence of decision is therefore open to doubt, and it will be safer for the purchaser to assume that it is his duty within the L.P.A., 1925, s. 199 (1) (ii) (*a*) to make requisition. The title will then depend upon the facts, see: *Wise* v. *Whitburn*, 1924, 1 Ch. 460, and cases cited.

PURCHASE IN NAME OF CHILD—IMPLIED GIFT—REBUTTAL.

859. *Q.* In the year 1919 A purchased certain land, the conveyance, on his instructions, being taken in the names of B, his son, and C, his unmarried daughter, as tenants in common, with the intention of saving income tax as B and C were not then liable to tax. The whole of the purchase-money was provided by A. The rents were collected by C (the receipts being signed by B and C) and were paid to A. C lived with A until her marriage in 1925, after which she ceased to collect the rents, but signed the receipts, and her moiety was included in her husband's income tax return on A's instructions. C's husband was not liable to income tax and the full rents continued to be paid over to A. C died in 1927 leaving a will under which her husband is executor and sole beneficiary. A is advised that he has a lien on the deeds (which he has held since the purchase) for the purchase-money provided by him. C's executor contends that there is a presumption of an advancement to B and C, and that he is entitled to a moiety of the proceeds of sale of the land and that A has no lien on the deeds. The case of *Gascoigne* v. *Gascoigne*, 1918, 1 K.B. 223, appears to have some bearing on the present facts. Can the executor's contention be upheld?

A. If a father purchases property in the name of a child, the presumption is that it is as a gift to the child, but that presumption may be rebutted. The evidence to rebut it, however, must be clear and cogent, and the mere acquiescence of the child in the father receiving the rent does not appear to be sufficient: see *Commissioners of Stamp Duties* v. *Byrnes*, 1911, A.C. 386. This case, combined with *Gascoigne* v. *Gascoigne*, *supra*, should ensure the success of the contention of C's husband, if A has no further evidence. The fact that A directed the rents to be included in C's husband's income tax returns of course tells heavily in the latter's favour, for if A's contention is warranted, he has been defrauding the revenue authorities, and, within the cases cited in *Gascoigne* v. *Gascoigne* cannot come into a court administering equity to be relieved of the consequences.

WESTMINSTER BANK LIMITED.

The Directors of Westminster Bank Limited have declared an interim dividend of 10 per cent. for the half-year ended 30th June on the £20 shares, and the maximum dividend of 6¼ per cent. on the £1 shares for the same period.

The dividends, 10s. per share and 1s. 3d. per share, respectively (both less income tax), will be payable on the 2nd August.

Colonel The Hon. Sidney Cornwallis Peel, D.S.O., has been appointed a director of Westminster Bank Limited.

Reviews.

Early Holborn and the Legal Quarter of London. By E. WILLIAMS, F.R.G.S. Two volumes. Medium 8vo. pp. xvi, §§ 1,822, pp. 1823-1912. £5 5s. net. London: Sweet & Maxwell, Ltd.

This is an important book and should be heartily welcomed by all students and antiquaries interested in mediæval London, and its ancient schools of law. The author, already known by his former work on the History of Staple Inn, has here chosen for a motto the words of Professor W. M. Ramsay, "Topography is the foundation of history," his object being to throw light upon the story of the various legal Inns by tracing the properties they respectively occupied and the devolution of these houses from one owner to another. Thus the social life of these legal societies and their systems of teaching law are outside his purview. Much time and great industry must have been devoted to the completion of his task. Never before has such a collection of deeds and other contemporary writings regarding the ancient Inns of Chancery been collected together in one book. He has adopted throughout the plan of presenting these documents in modern English, which for the general reader is obviously a matter of great convenience; but inasmuch as the appeal of such a work must chiefly be to the scholar and the antiquary it seems regrettable that he has not printed some, at least, of the evidence on which he relies in the mediæval Latin or ancient English of the original records, for the feeling of authenticity is necessarily impaired by the use of language and spelling remote from the age in which a document purports to have been written.

Volume I is divided into twenty-six chapters which are called "sections," a rather confusing description, as the book is not paged but numbered in paragraphs which are also called "sections." At the end of each major section or chapter are printed the documents relative thereto and the numbering of the minor sections runs consecutively through text and documents, the latter counting as separate sections. In this review the major sections are called chapters. Volume II includes fifteen chapters, and follows the same plan as Vol. I until the index is reached when page numbering is introduced. The index is a copious one, covering some ninety (double column) pages. The publishers are to be congratulated upon the admirable manner in which the book is printed. Fifty illustrations are an attractive feature, though necessarily all of these in date are long subsequent to the times with which the text is principally concerned. There are also seventeen maps, all, however, taken from a very late edition (1755) of John Stow's survey. No part of the earlier Tudor map of Ralph Agas (1563) is reproduced. There is also a preface of a rather unusual kind, supplying interesting information regarding coinage and values in the fourteenth century.

It is not possible here to do more than touch upon a few of the matters dealt with by the author. As the Inns of Chancery no longer survive as legal institutions modern interest chiefly centres round the four Inns of Court. Their evolution is still an obscure subject, but it may be mentioned that Mr. Williams thinks that for a long period of time there was no such distinction between Inns of Court and Inns of Chancery as latterly existed. He also makes the suggestion, which is new, that the Bishop of Chichester's Inn, by Chancery-lane, was already an Inn of Court when in 1422 the Society of Lincoln's Inn went to settle there. In perusing the evidence relating to the old Inns of Chancery one cannot help regretting the general destruction of their buildings. Only Staple Inn, the hall of Barnard's Inn, and part of Clifford's Inn still survive. The last named under sentence of death and awaiting final extinction.

The Society of Lincoln's Inn will be sorry to learn from this book that they have no ancestral connection with Henry de Lacey, Earl of Lincoln, the famous patron of lawyers in the time of Edward I, whose arms they display in a dexter cauton

on their shield; and that their true genesis must be sought in the house in Fetter Lane of a humbler individual, Thomas de Lincoln, a sergeant and pleader in the Court of Hastings, in the reign of King Edward III. The millrinds which are so prominent a charge in their arms Mr. Williams traces to the coat of Richard Kingsmill, Attorney of the Wards, who, he states, obtained in 1580 a grant of arms to the Society. This seems a probable explanation. But it is a pity he cites no authority for his statement, as it has long been understood that an Inn of Court not being incorporated cannot be the recipient of such a grant, there being no *persona* in law to whom it can be made. In 1701, when the arms then used by Lincoln's Inn (the de Lacey Coat) were in question, Sir Richard Holford, a Bencher of the Inn, obtained a painting from Mr. Gregory King (the Lancaster Herald) showing what would be proper for the Society to use; and on this painting they seem ever since to have acted.

It would have been a pleasing feature of this book if it had contained more recognition of the work done by earlier writers in the same field of labour. But this does not seem to have occurred to the author, who sometimes even appears to claim as his own discovery matters already made known by others. For instance, in his account of Sergeant's Inn (Fleet Street) he makes no reference to the exhaustive collection of documents bearing on its history printed by Mr. H. C. King in 1922. Further, Mr. Williams is by no means the first person to detect the errors of Coke and Dugdale in adding words (*legis* or *ad legem*) to the will of John Thavy (Armourer) which are not in the record at Guildhall; and the story of the Crown's dealings with the New Temple after the suppression of the Templar's Order and of the manner in which the Prior of the Hospitallers eventually recovered both the secular and consecrated portions was clearly told from the original records at the Public Record Office by the late Mr. Arthur Ingpen, K.C., in his edition of Master Worsley's book published in 1910. Indeed, regarding the Temple Inns, apart from the connection of the New Temple with the Beaumonts, Earls of Leicester, upon which Mr. Williams founds an interesting conjecture as to the precise time when the Templars settled there, this book has little of substance to add to what was known before. The author's claim to have discovered the origins of the two Temple Societies and the date of their foundation, which he definitely fixes in the year 1336 (*see* § 43) will not bear investigation, when the ground on which he bases it is examined; viz.—the division of the New Temple into consecrated and unconsecrated ground and the assumed occupation of the separated portions by the Inner and Middle Temple Societies respectively. At no known period has the occupation of the Inner Temple been confined to consecrated ground or that of the Middle Temple to secular ground. On the contrary, east of the dividing wall he mentions and within the consecrated area some chambers (represented to-day by Goldsmith Buildings, Lamb Building and the Cloisters) have been held from time immemorial by the Middle Temple; while Hare Court, west of that wall, fronting on to Middle Temple Lane and on secular ground, has always belonged to the Inner Temple Society. Indeed, so mixed was the New Temple occupation of the two Inns in 1608 that King James I, in the Letters Patent by which he then conveyed the land, etc., to the Inns, charged the rent each was to pay upon the whole property instead of upon the portions they respectively occupied, and it was not until the year 1732 that by a partition deed mutually agreed upon the two Societies formally defined their respective holdings. In view of what is above stated, the description under the Temple Cloisters illustration (§ 1381) that they divide the Middle Temple from the Inner Temple "as its predecessor did in 1338," is manifestly erroneous. Further, though lawyers may well have been housed in the New Temple at a date even earlier than 1336, there is at present no evidence that either of the Temple Societies was then in existence, the first mention yet discovered of the Middle Temple dating from 1404 and of the Inner Temple from the Paston Letters and 1440.

Another point deserving notice is Mr. Williams' claim to have discovered the reason why a special friendship early existed between Lincoln's Inn and the Middle Temple. He finds it in the circumstance that the two Inns occupied lands at one time belonging to the same landlord. But, if this was the reason, why was the Inner Temple excluded from that friendship, and why did an even closer friendship arise between Gray's Inn and the Inner Temple, betwixt whom the link of a common landlord was totally wanting? It seems that this riddle as well as that concerning the origins of the two Temple Societies still awaits solution.

In § 1347 a list is given of "Masters of the New Temple" (*sic*) under the Templars. Though colloquially called "Master of the Temple," the proper mediæval description of the head of the Order in England was *Magister Militiæ Templi in Anglia*. In the Order he ranked as Grand Preceptor of England, Scotland and Ireland. Three of the names in this list should be omitted—Richard Mallebench, Thomas Berard, and William de Beaulieu—for they were, in fact, Grand Masters of the Order, as the authorities generally cited for their inclusion amongst the English Masters, when examined, prove. On this it must suffice to quote the description of himself by the last-named in his acquittance, given at London, 11th August, 1274, to Edward I, of the debt that Prince owed the Order for money borrowed from them in the Holy Land—*Dei Gratia pauperis militiæ Templi Magister humilis*.

While referring to these matters which call for critical notice, we none the less cordially welcome this book as a mine of valuable information regarding the subjects of which it treats. J. Bruce Williamson.

Correspondence.

Stamps on Conveyances of Crown Lands.

Sir,—In the second paragraph of "Current Topics" of your issue of the 18th inst., is the statement that an assignment of a lease of Crown lands from one lessee to another enjoys the like immunity from taxation as the original lease.

We assume this statement refers to the general words in s. 77 of the Crown Lands Act, 1829, "or which shall be incidental to or connected with any such purchase, sale or exchange."

Can you refer us to any authority for your editorial statement?

Strand, W.C.2. R. H. Behrend & Co.
27th June.

[Presumably the immunity referred to has been granted under s. 77 of the Crown Lands Act, 1829. The following extracts from the proceedings of the Select Committee on Crown Lands (No. 2) Bill indicate what the practice has been:—

"Mr. Bidder (counsel for the promoters): Then comes Clause 15. There has been in the past a practice that assumed that the instruments in respect of the transfer of Crown lands did not require stamp duty, and that was even carried so far as to apply in the case of one holder of a right under the Crown transferring to another holder for a considerable sum. Even in such a case as that the document did not carry stamp duty.

"Chairman: Do you mean that up till now if a private person bought land from the Crown Lands Commissioners he did not pay any stamp duty on his purchase money?

"Mr. Bidder: That was true, but I understand it was even more than that. If one lessee was transferring to another lessee for good consideration or even for a very large sum, as it was a transfer of a Crown lease, there was no stamp duty payable."—Ed., *Sol. J.*]

Arrestment on the Dependence.

Sir,—The process of "Attachment" formerly in use in the Mayor's Court, London, as pointed out by your correspondents, Messrs. Leader, Plunkett & Leader, was a form of arrestment on the dependence. It was founded on a custom whereby if X had a claim against Y and Z was owing money to Y, then although X, Y and Z all resided and carried on business outside the city, if Z could be served with an attachment in the city and later served with a *scire facias* the money he owed to Y was made available to X. The abuse to which the process was put appears to have led to its destruction. As far back as 1867 the custom was challenged and practically doomed (*Cox* v. *The Mayor of London*, L.R. 2 H.L. 239), while the decision in the well-known case of *The London Joint Stock Bank* v. *The Mayor of London*, 1881, 6 App. Cas. 393, which decided that the process could not be used against corporations, more or less gave the custom the *coup de grâce*. The court appears to have abandoned the custom since. The historical development and legal aspect of the customary law of foreign attachment in the Mayor's Court are fully dealt with in the treatise by the late Assistant Judge Brandon (Butterworths, 1876), while a trenchant criticism of the practice will be found in THE SOLICITORS' JOURNAL, 1870, Vol. 15, p. 264.

4th July. YOUR CONTRIBUTOR.

Obituary.

MR. C. M. LE BRETON, O.B.E., K.C.

Mr. Clement Martin Le Breton, K.C., Recorder of Sudbury, for nearly twenty years, died in a London nursing home on Friday last, aged seventy-six. The fifth son of The Very Rev. William Corbet Le Breton, Dean of Jersey from 1850 to 1883, he was descended from a Jersey family dating back to the thirteenth century, and, like his brothers, went to Victoria College, Jersey. He passed into the Army from Sandhurst, and was gazetted to the Northumberland Fusiliers. After serving in Ireland and India he retired in 1872 in consequence of ill-health, and entering the Inner Temple was called to the Bar in 1879, taking silk in 1904. During the war he acted as a Military Services (Civil Liabilities) Commissioner, an Arbitrator in Industrial Disputes for the Ministry of Labour, and Chairman of various trade boards, for which services he was made an Officer of the Most Noble Order of the British Empire.

MR. P. M. HENDERSON.

Following an attack of pneumonia, Mr. Philip Maclagan Henderson, solicitor, Berwick-on-Tweed, died at his residence there after little more than a week's illness, on Tuesday, the 28th ult., at the comparatively early age of forty-seven. The eldest son of the late Mr. James Henderson, of the National Bank of Scotland, Berwick-on-Tweed, he was born on the 18th January, 1880, educated privately, and served his articles with the firm (then practising at Berwick-on-Tweed as Messrs. Sanderson & J. K. Weatherhead), which he subsequently joined in partnership, and now known as Sanderson, Tiffen & Henderson. He was frequently called upon to act as Under-Sheriff and Deputy Coroner, and held the high office of Sheriff of the County of the Borough during the mayoralty of his uncle, the late Mr. Alderman C. J. Maclagan.

His numerous public appointments included that of clerk to the Rating and Valuation Committee for the North (No. 1) Area of Northumberland, Deputy Registrar of the Berwick-on-Tweed County Court, chairman of the local branch of the League of Nations Union, and local hon. solicitor to the British Legion. He also rendered invaluable services in connexion with the Berwick-on-Tweed War Memorial, War Charities and Literary Society, &c. He took an intense interest in all that affected the welfare and prosperity of his native town in the life of which he was ever a prominent and popular figure, and his death will be a distinct loss to that ancient borough. He leaves a widow, one son (now at college), and three daughters him surviving.

MR. H. G. STEVENS.

Mr. Henry George Stevens, solicitor, formerly practising in Shrewsbury and Church Stretton, died on the 23rd ult., at the age of fifty-nine. Mr. Stevens, who was clerk to the Church Stretton Board of Guardians, Assessment Committee and Rural District Council, was admitted in 1891. W.P.H.

House of Lords.

Board of Trade *v.* **Cayzer, Irvine & Co.** 31st May.

LIMITATIONS, STATUTE OF—ARBITRATION—AWARD CONDITION PRECEDENT TO ACTION—TIME RUNNING FROM AWARD—21 Jac. 1, c. 16.

A charter-party provided that all disputes should be referred to arbitration and that the making of an award should be a condition precedent to an action. The owners claimed damages from the Crown for the loss of the ship and the Crown pleaded that the claim was statute barred.

Held, that time did not begin to run until the award was made, and therefore the action was not statute barred.

The question raised by this appeal was whether a claim by the respondents to compensation for their steamship which was requisitioned by the Government was barred by the Statute of Limitations. The charter-party provided that the owners should be liable for marine risks and that the Admiralty should be liable for war risks, and that the arbitration should be a condition precedent to the bringing of any action. The appellants, who appeared under protest, contended that inasmuch as the arbitration proceedings were not taken within six years after the date of the loss of the ship, the respondents' claim was barred by the Statute of Limitations. The arbitrator held that the respondents' claim was not barred by the statute and that the collision was a consequence of warlike operations. At the hearing before Rowlatt, J., the only point taken by the appellants was whether the claim was statute barred, and he held that the statute applied to arbitrations and gave judgment for the appellants. The Court of Appeal, on the contrary, held that having regard to the form of submission to arbitration which made the obtaining of an award a condition precedent to the commencement of an action, time did not begin to run until the date of the award and that the respondents' claim was not barred by the statute.

The LORD CHANCELLOR said that the only question was whether the arbitrator should have found that the claim of the respondents was barred by the statute by reason of the fact that the first step in the arbitration, namely, the appointment of the arbitrator, was not taken within six years after the date of the loss of the ship. He was far from throwing doubt on the view affirmed in the case of *Re Astley and Tyldesley Coal Co.*, 15 T.L.R. 154, that an arbitrator was bound to give effect to all legal defences, including a defence under any statute of limitation. While he was unwilling to pronounce a final opinion upon a question which did not really arise in this case, he certainly said nothing which was adverse to the view to which he had referred. But this was not a case of an ordinary submission to arbitration, and it appeared to him that the decision in *Scott* v. *Avery*, 5 H.L.C. 811, disposed of the present appeal. Under the statute of James which applied to this case, time ran from the cause of action, and it seemed to follow beyond question that, under the clause which they were considering, and having regard to the case cited, time ran not from the date of the loss of the ship but only from the making of the award. If that were so, then the arbitrator, however willing he might have been to give effect to all legal defences, could not properly have found

that time had run against the claimants. It was argued that in that view of the law claimants might delay their proceedings indefinitely after the damage had arisen. That might be so, but, if so, it was a feature which resulted from the form of contract which the parties had chosen to adopt, and it might be noted that it was at any time open to either party to expedite a decision of the matter by himself instituting proceedings for arbitration. He would add, in order to prevent misunderstanding, that the question as to the right of the Crown to take advantage of the statute had not been argued in that House, and in his view did not arise. The appeal failed, and he moved that it be dismissed with costs.

Lords DUNEDIN, ATKINSON, PHILLIMORE and CARSON concurred.

COUNSEL: *The Solicitor-General* (*Sir T. Inskip*, K.C.) and *Russell Davies* (*The Attorney-General*, *Sir D. Hogg*, K.C., with them); *Sir John Simon*, K.C., *A. T. James* and *James MacMillan*.

SOLICITORS: *Solicitor to Board of Trade; Ince, Colt, Ince and Roscoe.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

No. 1.

Musmann *v.* **Engelke.** 23rd June.

DIPLOMATIC PRIVILEGE—FOREIGNER SUED FOR RENT—DEFENDANT ALLEGED TO BE ON STAFF OF FOREIGN EMBASSY—LIABILITY TO BE CROSS-EXAMINED IN INTERLOCUTORY PROCEEDINGS—CERTIFICATE OF FOREIGN OFFICE AS TO DIPLOMATIC STATUS—WHETHER BINDING UPON THE COURT.

A defendant in an action contended that he was attached to a foreign embassy, and so immune from British jurisdiction. He made an affidavit to that effect and obtained one to like effect from an important person in the embassy in question, and he also obtained from the Foreign Office a certificate that he was in fact on the embassy list of personnel. He appealed against an interlocutory order that cross-examination should be allowed of the persons making the affidavits, and contended that the Foreign Office certificate was conclusive as to his immunity from process.

Held [by Scrutton and Sargant, L.JJ., Lord Hanworth, M.R., dissenting] *that the investigation and subsequent certificate of the Foreign Office could not in fact oust the jurisdiction of the court, and the cross-examination, directed to show whether the diplomatic privilege really existed, must be allowed.*

Appeal from a decision of Shearman, J., in chambers.

The plaintiff, Mr. Musmann, sued the defendant, Herr Engelke, for the rent of a house at Hampstead. The defendant entered an appearance under protest, and took out a summons to stay proceedings upon the ground that he was a member of the staff of the German Embassy and thereby entitled to diplomatic privilege. He obtained a certificate from the Foreign Office that his name appeared on the list of persons comprising that staff submitted to his Majesty's Government by the German Government. He made an affidavit himself that he was employed in the embassy, and obtained one to the same effect from a high official of the embassy staff. Various interlocutory proceedings took place in chambers, and finally Shearman, J., made an order that the plaintiff was entitled to cross-examine the makers of the affidavits to determine whether the defendant was in fact entitled to what he claimed. The defendant appealed. The court, having taken time to consider its decision, by a majority dismissed the appeal. The Attorney-General appeared before the Court of Appeal to contend that the certificate of the Foreign Office was conclusive, and affirmed the claim to immunity.

Lord HANWORTH, M.R., delivering the dissenting judgment, said it had been contended that the defendant, who had had duties at the German Consular Office was merely a consular secretary, and there was some evidence to support the contention. On the other hand, there was evidence that he was "exclusively employed on the staff of the embassy and has no duties save on the said staff," where he performed general duties, including the decoding of telegrams—a duty taken as a test in *Parkinson* v. *Potter*, 34 W.R. 215; 16 Q.B.D. 152, where it was held that diplomatic privilege, if otherwise conceded, was not lost because the diplomatist was a consul. The claim was then made that the certificate of the Foreign Office dated 3rd December, 1926, was conclusive. The attention of the court had been called to a number of cases where the question whether the claimant was entitled to diplomatic privilege was decided by the court upon facts contained in the evidence before it, such as *Darling* v. *Atkins*, 3 Wils., 33; *Novello* v. *Toogood*, 1 B. & C., 554; *Fisher* v. *Begree*, 1 C. & M., 117; *Magdalena Steam Navigation* v. *Martin*, 7 W.R. 598; 2 E. & E., 94. Here the Attorney-General had intervened and informed the court that the defendant was recognised by the Foreign Office as a member of the suite of the German Ambassador, and a certificate of the Foreign Office to that effect, dated 3rd December, 1926, and signed by the assistant under-secretary, was before the court. That statement had been rendered unequivocal by the statement of the Attorney-General. What better evidence as to the status of the defendant could be forthcoming? Such a certificate was treated by the court as conclusive in *Re Suarez*, 62 SOL. J., 158; 1918, 1 Ch., 176, where the Foreign Office gave information that the defendant had ceased to be the Minister of the Bolivian Government and had lost his privilege. The attitude of the Foreign Office was treated by the Court of Appeal as correct and authoritative in the *Gagara*, 63 SOL. J., 301; 1919, P., 95, where Bankes, L.J., referred to the divergence of action between the courts of this country and the Government if the statements of the law officers of the Crown were not accepted and acted upon. The Attorney-General had stated that his intervention in the present case had been dictated in view of that very possibility: *Heathfield* v. *Chilton*, 1767, 4 Burr, 2015. No doubt the Foreign Office and the Attorney-General undertook a serious responsibility in the adoption of that course. In so doing they might be depriving one of His Majesty's subjects of his ordinary right of suit against one whom he claimed to be his debtor, and, if the defendant was a debtor to the plaintiff, the debt ought to be paid. So long, however, as the recognition of the defendant by the Foreign Office existed, international comity required that effect should be given to it. For those reasons, in his judgment, the appeal ought to be allowed and the Master's order restored, but as he had the misfortune to differ from his colleagues the order of the court would be as directed by Scrutton, L.J.

SCRUTTON, L.J., said that the defendant contended that he was immune from the jurisdiction of our courts, but that the plaintiff had a remedy against him in the courts of Germany. He argued, apparently seriously, that the questions raised on an English contract as to a house in England should be decided by a German court which knew no English law except as a question of evidence, and which was in a place where the witnesses were not resident. It was desirable that diplomatic immunity should be maintained and that the remedy for avoidance of legal obligations might be complaint to or through the Foreign Office, but it could hardly be desirable that foreign subjects resident in England should make contracts and then break them without effective remedy. He (Scrutton, L.J.) was not at all satisfied as to the facts, or the procedure adopted. To say that a British subject suing on a British contract was to be deprived of his right to enforce his contract in a British court because a department of the Government, holding an enquiry not on oath and at which the plaintiff was not represented, had arrived at the conclusion that the defendant had immunity from process without being asked by the court for information, and had also instructed the Attorney-General

to inform the court of the conclusion at which the department had arrived, without giving the plaintiff an opportunity to question it or to ascertain the facts for himself, was in his (his lordship's) opinion a most unsatisfactory position, and one not warranted by any authority. There were embassies *and* embassies: a statement by Embassy A might have a different weight from one by Embassy B. The courts must decide each case on the evidence, and could not say that they would accept all statements by all accredited representatives of states as conclusive. If very recent events did not show the impossibility of that position, a reference to the odd claims made unsuccessfully in old cases by various minor embassies and their staffs would prove it. He was quite unable to accept the Attorney-General's statement of the result of the Foreign Office investigation as binding and conclusive in that court. To do so would be to substitute a department of the Government for the courts in a class of case where such substitution had never hitherto been recognised, and he was not disposed to make a precedent. The consular service had never hitherto been granted the immunity which applied to the diplomatic service, and the contention that the transfer of control to the ambassador conferred that immunity on the official transferred could not be accepted. He quite realised, however, that a transferred official might have sufficient diplomatic work given him to confer upon him diplomatic immunity, but he did not think it desirable to extend the class of persons in this country who could disregard the laws without legal consequences. The position of a former consular official should be decided with full knowledge of the relevant facts, and cross-examination on general statements was one of the best means of getting at those facts. There was no danger that that cross-examination would be allowed to drag out diplomatic secrets. The question was one to be determined by ascertaining the accurate facts, and it might be that the defendant, when those facts were ascertained, would be found entitled to immunity. It might be enough to say that Shearman, J., had exercised his discretion and, there being no relevant change of facts, it could not be interfered with. But, having come to the same conclusion as Shearman, J., he felt it his duty to express it. The appeal should be dismissed, with costs in any event.

SARGANT, L.J., agreed with Scrutton, L.J.

COUNSEL: *Pritt*, K.C., and *W. T. Monckton*, for appellant; *Giveen* and *J. B. Blagden*, for respondent; *Sir Douglas Hogg*, K.C. (A.-G.) and *Drucquer*, in support of the contention that the Foreign Office certificate was conclusive.

SOLICITORS: *Buckeridge & Braune; Waterhouse & Co.; The Treasury Solicitor.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

The Law Society.

(*Continued from p. 545.*)

LEGAL AID FOR THE POOR COMMITTEE.

The departmental committee appointed by the Lord Chancellor and the Home Secretary issued a first report on the 29th March, 1926. It dealt with the question submitted to them as to whether a need exists for additional legal assistance amongst those who are called upon to plead in the criminal courts. The committee found that the assistance available was adequate save in a few instances which they specified. A remedy which they indicated was an extension of the assistance granted under the Poor Prisoners Defence Act. Two separate sets of rules to give effect to the recommendations of the committee have been prepared by the Home Secretary, and he was good enough to submit them in draft for the observations of the Council.

The departmental committee are considering the other questions submitted to them as to the need of poor persons for assistance in county court proceedings and for legal advice generally. Evidence from the Council has been tendered to the effect that in their opinion there is no present need to extend the Poor Persons Rules to the county court, save possibly in those High Court poor persons' cases which are remitted to the county court. Representations also have been made to the committee with regard to the activities of so-called "legal aid societies," which circulate offers to undertake the conduct of process, particularly in accident cases, on champertous terms.

RATING AND VALUATION ACT, 1925.

Particular reference was made in the last annual report to the provisions of this Act which secure for solicitors the right of audience on rating appeals before quarter sessions committees when the rateable value of the hereditament to which the appeal relates does not exceed £100.

The Home Secretary has prepared rules under s. 34 of the Act regarding the practice and procedure in assessment appeals under Part 2 of the Act. A draft of the rules was submitted to the Council before they were issued and the Home Secretary was good enough to invite the Society's observations upon them. The rules regulate not merely the practice and procedure but also the scale of fees to counsel and of remuneration to solicitors. The observations which the Council made were considered sympathetically and to some extent their recommendations were adopted.

DERBY COURT OF RECORD.

It is now two years since the Council mentioned to the Lord Chancellor complaints which they had received regarding the antiquated procedure in this court, and the manner in which certain money-lending creditors had found themselves able to exploit it. The Council were informed by the Lord Chancellor's secretary that his department had for a long time been in communication with the Derby Corporation and that as a result there would be included in a Bill which the Corporation were promoting for other purposes provisions which would enable the Privy Council entirely to revise the procedure of the court. The Bill was subsequently introduced and was submitted to the Derby Law Society. On receiving an assurance that the powers sought would be used to frame rules upon the model of those in the Court of Passage and the Salford Court of Record and not be in such a form as would tend to place the court in competition with the Derby County Court, the Derby Law Society acquiesced in the Bill. They asked, however, for an opportunity of perusing the rules in their draft state and the Lord Chancellor's secretary has promised to do his best to comply with their request. The Law Society can claim that this much-needed reform has been brought about by their intervention.

MUNICIPAL CORPORATIONS ACT, 1882, S. 12.

A letter was received from the British Medical Association stating that the effect of s. 12 of the Municipal Corporations Act, 1882, is to make ineligible to sit and vote on a municipal body any person who has a share or interest in any contract or employment with by or on behalf of that body. It appeared that the section in question was causing hardship to medical men as their indirect employment by public bodies was becoming increasingly common. The Association enquired whether the same considerations applied to solicitors. The Council after deliberating the matter in Committee replied that, so far as they had been able to ascertain, solicitor members of public authorities were not experiencing any similar difficulty and modification of the section did not appear therefore to be called for so far as they were concerned.

SOLICITORS' REMUNERATION.

There has been sent to every member of the Society a supplement to the Solicitors' Remuneration Digest containing copies of the Solicitors' Remuneration Orders, 1882 to 1926, and specimen tables of costs under those orders including where applicable the increase of 33⅓ per cent. The publication of this supplement was considered desirable in view of the many alterations which had been made in the various scales since the issue of the last edition of the Digest in 1923. Many letters appreciative of the Supplement have been received from members.

SOLICITORS' REMUNERATION (EXTINGUISHMENT OF MANORIAL INCIDENTS).

The 14th Schedule to the Law of Property Act, 1922, empowers the Rule Committee under the Solicitors' Remuneration Act, 1881, to prescribe the remuneration of solicitors in connexion with the extinguishment of manorial incidents. The Committee issued an Order on the 29th July, 1926, which was signed amongst others by Dr. A. H. Coley, the President of The Law Society, and by Mr. A. W. Taylor, President of the Incorporated Law Society of Bristol, representing provincial solicitors.

PROCEEDINGS BY AND AGAINST THE CROWN.

It was stated in the last annual report that the Lord Chancellor had promised that the representations which had been made to him regarding the delay in the issue of the

Committee's report should not be lost sight of. The Report of the Committee was not issued until the 18th February, 1927. It is unanimous and is signed by many distinguished representatives of the legal profession. It makes, however, no recommendation, but states merely that, assuming the changes proposed are to be effected, Government Departments will consider the Bill, which is appended to the report, as satisfactory. The Committee indeed state clearly that they have been relieved of the duty of making any recommendation as to the desirability or possibility of the proposals set out in the Bill.

With regard to the Bill itself, there can be no doubt that, if it is passed, it will give effect to the wishes so long expressed by the Council that legal proceedings between the Crown and the Subject should be assimilated to those as between one Subject and another.

The Bill protects from discovery documents which it would be injurious to the public interest to disclose. Incidentally, the Bill contains a provision that any person against whom a claim has been made for payment of death duties, or who has reasonable ground for apprehending that such a claim may be made against him, may apply in a summary manner to the High Court to have it determined whether he is accountable or chargeable with such duties, and to have the extent of his liability determined. The Council regard this as a very useful provision, and cannot help thinking that it would be greatly to the interest of the community if some such provision were made also with regard to stamp duties.

The preparation of the Bill is a step in advance towards a reform which was first advocated and has been pressed forward by the Council.

House of Lords Appeals.

The Royal Commission on Legal Procedure in Scotland issued their report in March last. The report has been drafted with remarkable ability, and will repay a perusal by those interested in legal procedure generally, although in the main it does not affect the administration of justice in England. Here and there are to be found comparisons between English and Scottish legal procedure without, however, any important concessions in favour of the English procedure. There is, however, one recommendation which appeared to the Council to require their consideration. It is that the period of six months, within which appeals may be laid to the House of Lords, should be reduced to three months. The Council have taken this recommendation into consideration, and are of opinion that it should be supported, subject, however, to the exclusion, in calculating the three months' period, of the Long Vacation and of the other legal vacations. The report of the Legal Procedure Committee on the subject is included in the appendix to the report.

Income Tax: Crown Appeals.

With regard to the question of payment of costs in connection with income tax cases in the courts, the Chancellor of the Exchequer has given consideration to the matter in the light of the representations made by the deputation which attended upon him last year, on which the Council were represented. He has stated that since that occasion he has made further enquiry as to the precise character of the test cases referred to by the deputation, in which the Board of Inland Revenue have in the past arranged to bear the cost of pending appeals to the courts. He has found that these were cases involving new and difficult questions of substance, on which the correct interpretation of the law appeared, both to the Board and to the taxpayer, extremely doubtful, and on which it had been desirable, by reason of the character of the questions involved and the wide scope of their application, that authoritative decisions should be obtained in suitable cases. He considers that from the nature of these conditions such cases could not be very numerous, but he agrees that in a suitable case of this type it would be proper for the Board to consider whether the importance of obtaining a decision on a general and difficult question would justify them in agreeing that the costs of an appeal should be borne by the State. In considering such a case the Board would have regard to any representations which any representative and interested body might wish to put before them.

As regards other cases which may arise, in which are involved questions affecting any numerous class of taxpayers, the Chancellor does not see that he can add anything useful to what he stated to the deputation. He had suggested that in such circumstances the difficulties could be met if a test case were taken, of which the expense would be borne by a body representative of either taxpayers in general or the particular class of taxpayer concerned, and he thinks that this course offers a remedy, which would be available in a number of cases, in which the cost of an appeal could not justifiably be imposed on the public purse. He states that the Board of Inland Revenue for their part will be prepared, where this course is adopted, to discuss the matter with the representative body concerned, with a view to the selection of a suitable case or cases for presentation to the courts.

Insurance Brokers' and Agents' (Registration) Bill.

This Bill seeks to provide for the registration of all insurance agents. The Council have informed the promoters that unless a clause is inserted in it excluding solicitors from its operation the Council will take steps to oppose the Bill.

Benefices (Ecclesiastical Duties) Measure, 1926.

Representations were made to the Council stating that an accused person under this measure may not have the right to appear by a solicitor or counsel. The Council felt there might be some doubt on this point, and, accordingly, they addressed a letter to the National Church Assembly to the effect that they assumed the incumbent would have the right to appear before the committee of inquiry by counsel or solicitor, and that, as it must be in contemplation to confer upon the incumbent similar rights before the appeal tribunal under the Act, it would be advisable that provision should be made for the appointment of a solicitor on the rule committee appointed to regulate procedure before both the committee of inquiry and the appeal tribunal.

A reply was received from the secretary to the Church Assembly stating that the clause in the measure under which the rule committee would be appointed is in the nature of consolidation, as it had been taken from the Benefices Act, 1898. A promise was made, however, that the Council's representations would be laid before the standing committee of the Church Assembly in due course.

Landlord and Tenant Bill.

The Prime Minister, in his speech at Scarborough on the 7th October last, foreshadowed legislation to modify the rights of those holding lands subject to leases. A resolution on the subject was moved at the special general meeting of the Society held last January. It was withdrawn, however, after discussion, on the meeting being informed that whatever legislation might be introduced would be scrutinised closely by the Council.

In April last the Government introduced the Landlord and Tenant (No. 2) Bill, and immediately after its second reading the Home Secretary informed the Council that he would treat any views which they might express with regard to the Bill with very great respect, and would be glad to have their observations.

While the Council regard with anxiety the fact that the Bill disturbs, to a large extent, the principle of sanctity of contract, they did not consider it fell within their province to oppose the Bill as a whole. They have, however, taken it into their careful consideration, and have submitted to the Home Secretary a considerable number of suggestions for its amendment.

Rent and Mortgage Interest (Restriction) Acts.

Acting upon various further representations from members of the Society, the Council have once again informed the Minister that in their opinion the restrictions, so far at all events as mortgages are concerned, should be removed at the earliest possible date. The Council have pointed out particularly the hardship to beneficiaries under estates which cannot be realised because they are invested on mortgages the calling in of which is restricted by the Acts.

Tithe Act, 1925.

In the last annual report it was mentioned that although the collection of tithe had been transferred to Queen Anne's Bounty, the Council were encouraged to hope that its collection would continue in the hands of those solicitors who in the past have undertaken the duty. This hope has not entirely been fulfilled. Queen Anne's Bounty have divided the collection of tithe into fifteen areas. It has been satisfactory to learn that in thirteen areas the secretaries of the collecting committees are solicitors. Instances in which the collection of tithe has not remained in the hands of the solicitors to the incumbents have been brought to the attention of the Council, who, however, have been compelled to point out that the matter is one regulated by legislation and that therefore they cannot usefully intervene.

Supreme Court Documents (Production) Rules, 1926.

It was suggested to the Council that they should urge upon the President of the Probate Division the desirability of making applicable to the Probate Division the Supreme Court Documents (Production) Rules, 1926, so that when original wills were required for production in the country it would be possible to forward them to the local registry by post. The President replied that he had informed himself of the nature of the postal arrangements under which documents

lodged in other Divisions of the High Court might be transferred for production at the Assize Courts at the instance of the parties, but he stated that, having regard to his statutory responsibility for the custody of wills and testamentary papers, he felt himself unable to direct that documents within these descriptions should be sent by post from London to recipients in the country.

Government Solicitorships.

It was stated in the last annual report that further representations had been made to the Lord Chancellor, particularly in view of the then recent appointment of barristers to the offices of Treasury Solicitor and Solicitor and Assistant Solicitor to the Ministry of Health. On the 1st July last the Lord Chancellor addressed to the Council a letter dealing fully with the subject of appointments to Government solicitorships. It was printed in the Society's *Gazette*. The Lord Chancellor expressed himself as confident that, in selecting officers for superior posts in the Civil Service, those in whom the power of appointment rested would address themselves solely to the question of who was the best candidate to appoint, without considering to which branch of the profession he belonged. He stated that in the case of the Treasury Solicitor, the duties to be performed were such that it might be anticipated the choice would usually fall upon a barrister. But in the other cases his Lordship had no reason to suppose that a solicitor would stand in any worse position than a barrister.

With this expression of opinion the Council were obliged to rest content.

Law of Arbitration Committee.

The Departmental Committee appointed by the Lord Chancellor under the Chairmanship of Mr. Justice MacKinnon to consider the Law of Arbitration invited the Council to tender evidence. The Committee extended a similar invitation to the General Council of the Bar. A conference took place between the Bar Council and the Council of the Law Society, and as a result a joint memorandum was submitted to the Committee. The latter have issued their report, which indicates that sympathetic consideration has been given to the memorandum referred to.

Procedure by way of Arrest of a Debtor's Property in Civil Proceedings in England and Wales where Debtor resides Abroad.

The London Chamber of Commerce made representations to the Council that power should be given to the Court at the commencement of civil proceedings to recover a debt from a person who is not resident in England to arrest or detain sufficient of the debtor's property situated in England to cover the claim. The Chamber of Commerce referred to the existence of such a jurisdiction in Scotland. The Council made full enquiry as to the effect of the procedure in Scotland and decided ultimately that they were not prepared to recommend the adoption in England and Wales of the Scottish procedure by way of arrest of a debtor's property in civil proceedings.

Company Law and Practice.

In the last annual report reference was made to the appointment of a departmental committee on this subject. The report was issued last June and considered by the Council. Their view is that, on the whole, it is satisfactory.

The Government have introduced a Bill to give effect to the report. Members will have observed with satisfaction that on the second reading of the Bill in the House of Lords on the 3rd of May last, on the recommendation of Lord Hunsdon and Lord Danesfort, the Lord Chancellor stated that he would gladly give a reasonable time before the Bill came on for consideration in Committee, for the Law Society to submit their views. The Council have since forwarded to his lordship a memorandum setting out their observations.

Many of the amendments suggested in such observations have been accepted by the Government.

During the past year the fees of the Winding-up Department have been increased. The new fee order was submitted to the Council before it was issued, and they stated, after considering the reasons advanced for the alteration, that they had no objection to make to it.

With regard to the taxation of costs in winding-up matters, complaint was made that at the conclusion of the last Long Vacation there was a certain amount of delay in the taxation of bills of costs in the Companies Winding-up Department. The Lord Chancellor's attention was directed to the matter, and he replied that no cases of delay had been found in taxing bills. It appeared, however, that some bills are taxed in the Central Taxing Office, and apparently some bills lodged in the Companies Winding-up Taxing Offices, failing taxation there, are sent to the Central Taxing Office where they are entered as on the date of their receipt in the latter office.

Duplicate Grants of Probate.

The Association of British Chambers of Commerce made a proposal that duplicate grants of probate should be issued at a low price so as to expedite the registration of probates with limited companies. The Council expressed the opinion that the present facilities for obtaining duplicate grants are adequate to expedite sufficiently the registration required. They informed the Lord Chancellor of this opinion and expressed the hope that, if any additional facilities were issued every possible precaution would be taken to avoid any risk of counterfeit grants.

Unqualified Persons Practising as Solicitors.

The Council have been called upon from time to time to intervene with the object of preventing unqualified persons from practising under the cloak or in the name of a solicitor. It is an unfortunate fact that there are solicitors who are content to allow unqualified persons to practise in their names.

Following upon a case which had been ventilated somewhat more widely than usual in the public press, the Council referred it to the professional purposes committee to consider the whole question of unqualified persons practising as solicitors. As the result of the report of that committee the Council prepared a Bill intended to prevent a solicitor taking into his employ without their consent a person who has been suspended or struck off the Rolls. Lord Darling was good enough to take charge of the Bill. The Lord Chancellor gave it general approval and the Master of the Rolls supported it. The Bill passed the House of Lords in the last session of Parliament with but slight amendment. The same Bill has been read a second time in the House of Commons and committed to a standing committee. The Government have been asked to allow time for its further consideration.

Proceedings under the Solicitors Acts.

The thirty-eighth annual report of the committee constituted under The Solicitors Acts, 1888 and 1919, will be found in the Appendix at p. 71, and a reference to this report will show that on the application of the Society the names of eight solicitors, who had previously been convicted on indictment and sentenced to terms of imprisonment, were struck off the Roll by order of the committee; that on the application of private individuals the names of two solicitors were struck off the Roll and seven other solicitors were suspended from practising and ordered to pay costs; that in two cases the committee found that although the allegations against the solicitors had not been substantiated the applications were justified, and they ordered the solicitors to pay the costs; that in one case the conduct of the solicitor was condemned and he was ordered to pay the costs; that in one case, although the solicitor was found guilty of professional misconduct, having regard to his explanation and apology tendered, he was ordered to pay the costs; that in one case the committee found the allegation against the solicitor had not been substantiated and they dismissed the application with costs, and in two cases they found the allegations had not been substantiated and made no order.

Convictions for offences under s. 12 of The Solicitors Act, 1874, and s. 44 of The Stamp Act, 1891, were obtained against five unqualified persons, and other cases have either been dismissed or withdrawn after inquiry and apology had been made.

Under the provisions of The Solicitors Act, 1906, the application of an undischarged bankrupt for the renewal of his practising certificate was refused.

As regards applications under s. 16 of The Solicitors Act, 1888, the Council refused to renew the certificates of four solicitors. In two of these cases the solicitors appealed and the Master of the Rolls confirmed the decision of the Council. In three cases the certificate was authorised to be issued subject to conditions.

RENT RESTRICTIONS.

Acts to be continued for a Year.

Replying to Mr. C. Williams (Torquay, U.), Mr. Chamberlain, Minister of Health (Birmingham, Ladywood), said his attention had been called to the report adopted by the London County Council on the Rent Restrictions Act, and he had carefully considered the recommendations which it contained. Representations on the subject had been made to him from various quarters, and he had received a number of suggestions for the amendment of the Rent Restrictions Acts, some of which merited careful consideration. In view, however, of the difficulty of finding time during the present Session for an amending Bill, it was proposed to provide for the continuance for one year of the Rent Restrictions Acts in their present form by including them in the Expiring Laws Continuance Bill, as was recommended in the report of the London County Council.

THE WORSHIPFUL COMPANY OF CARPENTERS.

COURT DINNER TO THE LORD HIGH CHANCELLOR.

(By our Special Representative.)

There was a distinguished company, which included many eminent members of the legal profession, on the 1st inst., at the Court Dinner to meet the Lord Chancellor (Viscount Cave). The Master, Mr. H. Westbury-Preston, presided, and those present included The Most Hon. The Marquess of Reading, G.C.B., G.C.S.I., G.C.I.E., The Right Hon. Lord Hewart, P.C. (Lord Chief Justice of England), The Right Hon. Lord Darling, P.C., The Hon. Mr. Justice Tomlin, The Hon. Mr. Justice Eve, The Hon. Mr. Justice Bateson, The Hon. Mr. Justice Salter, His Honour Judge Drysdale Woodcock, K.C., The Right Hon. Sir Donald Maclean, K.B.E., LL.D., Sir James O'Connor, K.C., Sir James W. Greig, C.B., K.C., Sir Patrick Hastings, K.C., Mr. J. A. Hawke, K.C.M.G., Alderman Sir W. A. Waterlow, K.B.E., Sir Herbert Austin (Clerk, Central Criminal Court) Sir J. W. Shaw (Solicitor to the Inland Revenue), Sir G. A. Bonner (The King's Remembrancer), Sir Robert W. Dibdin, Sir John M. Stavrido, Mr. T. Bullivant (Solicitor to London County Council), Chas. P. Eells (W.S.A.), Mr. C. H. Saunders (President Birmingham Law Society), Mr. A. F. Bland (President Cardiff Law Society), Mr. O. J. Ellison (President Suffolk and North Essex Law Society), Mr. W. Harding, Mr. A. C. Hillman (President Sussex Law Society), Mr. Percy Preston (Past Master), Mr. D. Wintringham Stable, LL.B., J.P. Mr. A. Stanley Stone, C.C. (Master City of London Solicitors' Company), Mr. Adam Fox (President Manchester Law Society), Mr. T. Moore Dutton (President Chester and North Wales Law Society), Mr. F. J. F. Curtis (President Yorkshire Union of Law Societies), Mr. Matthew Arnold (President Herts Law Society), Mr. Oswald A. A. Simpkin, C.B., C.B.E. (The Public Trustee), Mr. H. S. Powell (President Yorkshire Law Society), Mr. W. J. Down (President South-East Surrey Law Society), Master P. W. Chandler, F.S.A. Master A. F. Ridsdale, Mr. R. M. Welsford, Mr. W. J. Winter Taylor (President Berks, Bucks and Oxford Law Society), Mr. M. H. Laxton (President Bristol Law Society), Mr. E. R. Cook (Secretary The Law Society), Mr. Warden F. Adams Smith, F.R.I.B.A., Mr. Warden Walter Jacob, Mr. Warden Garford D. Minn, and The Clerk to the Company (Mr. J. Hatton-Freeman), etc., etc.

The MASTER proposed the Toast of "The Houses of Parliament."

In responding, Lord CAVE said he should like to thank the Carpenters' Company for their friendly thought in inviting to that gathering so many members of the legal profession. (Hear, hear.) The law, it had been said, was a great edifice under which each one of them took shelter. If that was true it behoved everyone to maintain the edifice and keep it in good condition. He believed that nowhere in the world was law more upheld and nowhere were lawyers, with all their faults, so much welcomed as in that great city. (Hear, hear.) He had received during his few years' tenure of office nothing but support and encouragement from a succession of Lord Mayors and from all those whose interests were in that great city, and he always felt that whatever attacks—foolish attacks as a rule—were made upon the Courts of Law, those attacks received no attention and no credence in the centre of the kingdom, and indeed of the world. (Applause.) As to the House of Lords, what should he say? They had witnessed again what had happened many a time before. He had witnessed in that assembly a succession of debates which he thought had been worthy of any assembly in the world. (Applause.) It was his duty mainly to listen to those debates, and he was always impressed by the wealth of knowledge of any subject under the sun which would be found in that assembly. He did not know whether his friend, Mr. Hawke, would agree with him when he said that to him the House of Commons represented emotion and the House of Lords represented experience, and while in his time he enjoyed a share in that emotion he was glad to be a witness to the reality and value of the experience. The Master had referred in restrained terms to the fact that there had been suggestions for a change in the constitution and powers of the House of Lords. They would not expect him that night to make any declaration of policy; there were fitting occasions for the purpose, but that was not one of them. If he were asked to give advice on the subject, he should say: "Keep cool and reserve your judgment." The question of the powers of the Second Chamber had long been with them, and for the last generation at least had been constantly with them, but the problem would not be quickly or easily solved; nor could it be solved without giving full consideration to the opinions of all those who are concerned in that great national question and are willing to help in its solution. The task of proposing some answer to that vital question would not be lightly undertaken by any Government, nor, once undertaken, would it be lightly abandoned. (Applause.) He could only express the hope that in that, as in other great questions, we should all have regard to no prejudice or personal feeling, but only to the wider interests of the country as a whole and to the credit and reputation of both Houses of our ancient Parliament. (Applause.) He thanked the Master for the kindly things he had said, and could only add that, while it was many years since he had had the pleasure of being a guest of that ancient Guild, he hoped many years would not elapse before the experience was repeated. (Applause.)

Mr. J. A. HAWKE, K.C., M.P., in replying for the House of Commons, said he felt some little difficulty as to how he should deal with the subject, but a legal friend had suggested that he should put the toast on the short cause list. (Laughter.) He proposed to do so and would assure the Lord Chief Justice that that would not be one of those short causes that were generally found in practice to last not less than four or five days. (Laughter.) He might in fact be very brief in dealing with that important toast, for, after all, the House of Commons was not at that moment on its defence. No one proposed to reform the House of Commons. (Laughter.) The Lord Chancellor had referred to the House of Commons as a place of emotion, while he claimed that the House of Lords was a place of experience. What connexion that had with the "flapper" vote, to which the Master had referred, he could not understand. (Laughter.) He was prepared to admit that the House which he for the moment represented was not without its difficulties, but whatever could be said about it, they would all agree that it was a pattern for representative institutions all over the world. (Hear, hear.) He thought also they could say that it owed that quality to the fact that it had been built up by the English people and, if he might be allowed to say so, not unassisted by a few Cornishmen. Geographically the House of Commons was built upon a swamp, but its foundations lay a good deal deeper and firmer than that and were as stable as they could be, because they were built in the hearts of the English people. (Cheers.)

In responding to the toast of "His Majesty's Judges," proposed by Sir DONALD MACLEAN, the Lord Chief Justice (Lord HEWART) said that once upon a time there was a gentleman—or at any rate there was some evidence that he was a gentleman—called Aristides, and it was stated that the citizens of Athens got a little tired of hearing him called "The Just." Through no fault of his (the speaker's) he seemed to be called upon every Monday, Wednesday and Friday—he would not say to answer for—but to respond for "His Majesty's Judges." If he knew anything of his illustrious colleagues—and he sometimes wondered if he did—he thought the time had come when they also might be a little tired of being called "Just." They were worthy of all the pleasant things which Sir Donald Maclean had thought right to utter concerning them, but Sir Donald was almost restrained, if he might say so, in the praise he gave to his colleagues. For himself he proposed to take refuge in a verse which no doubt they had all heard, but which perhaps they would allow him to repeat on the present occasion. Many years ago a certain man who lived in Arundel-street, with the Law Courts at one end and the Thames at the other, wrote:—

> "At the top of my street the lawyers abound,
> And down at the bottom the barges are found.
> Fly, honesty, fly to some safer retreat,
> There is craft in the river and craft in the street."

(Laughter.) One of his illustrious predecessors, on hearing this verse, replied:—

> "Why should honesty fly to some safer retreat—
> From attorneys and barges, 'od rot 'em!
> For the lawyers are just at the top of the street,
> And the barges are just at the bottom?"

If he might say so—and he could do it without immodesty, because he was speaking for others—Sir Donald Maclean was right in what he said about His Majesty's judges. There was a virtue known to the ancients and described in Aristotle's "Nicomachean Ethics," as the virtue of the man who thought himself worthy of great things being worthy, and that described his colleagues. They were content with the admiration which

they commanded from the public, and as for the future he could assure Sir Donald Maclean that they were not in the least intimidated—whether in the Chancery Division where wit and wisdom flourished under the ægis of Mr. Justice Eve, or in the King's Bench Division, where those who were a little nearer, but no dearer to him, also dwelt. (Laughter.) If His Majesty's judges had decided when a place was not a place within the meaning of the Act; if they had decided the more difficult question when a sardine is not a sardine; if they were able to say once for all when a Witney blanket was not a Witney blanket, why should they recoil from the task of telling the public when a strike was not a strike? He was glad that the proposer of the toast had directed attention to the increased encroachment on the liberties of the people not by way of the King but by way of the Executive. Lately he had had a new fear when he turned to a new Act, because he felt morally certain he would find a section which provided that any matter of dispute was to be decided by the Minister and his decision was not to be questioned by mandamus or otherwise; or he would find that the Act would enable somebody to make some rules and regulations, and if in making those rules and regulations he thought right to modify the provisions of the Act he might do so. It was a very pleasant prospect, and if he were, as he was not, but as he might have been, the editor of a Sunday newspaper he could not imagine what would be the derangement of epitaphs in which he would describe this undoubted and grave tendency. (Hear, hear.) But as they said in the Commons—and sometimes in the Lords—"Enough of statistics." It was a great delight to him to be present and to join in doing honour to the Lord Chancellor. In his presence and before his face it would not be right or proper on his (the speaker's) part to speak of the way in which the Lord Chancellor was regarded by His Majesty's judges. But whatever the changes or troubles or anxieties, the Lord Chancellor was always the same calm, quiet, just and kindly gentleman. (Applause.) It was a subject of marvel to him and to all of them how Lord Cave could discharge the enormous variety of duties that fell to his lot and yet preserve at once his equanimity and his health. Long might he continue to do so. (Applause.) He was—what should he say—a little touched by a reference made in response to some rather challenging and provocative remarks about the House of Lords. He dared to say a word upon the theme, because there were those who might be "as sober as a judge," and there were those who might be "as drunk as a lord." (Laughter.) He had the great advantage of being able to be one or the other at pleasure—(laughter)—and in that way if he might parody the Lord Chancellor's phrase, he was in the position of enjoying at suitable intervals both the emotion of experience and the experience of emotion—(renewed laughter)—but he would refrain from that alluring theme. He did not know what was the present position of the House of Lords. He did not know whether the House of Lords was remanded on bail, or whether it was committed for trial, or whether it had been reprieved after a hasty sentence of death. He hoped that if the case came before the Court of Criminal Appeal there would not be put forward the uninteresting and worn-out defence of insanity. (Laughter.)

Lord READING, in proposing the toast of "The Legal Profession," said he believed that in this country the judges stood so high because they had the highest regard for impartiality and had the sole desire to do what was right, just and fair. (Hear, hear.)

Sir PATRICK HASTINGS and Mr. A. H. COLEY, LL.D., replied.

Mr. WINTRINGHAM N. STABLE proposed "Our Guests," and Lord DARLING, in replying, said that he wanted them to realise that it was not entirely what they read in books that described the true state of the legal profession. They had doubtless all read of the young man who went into the Central Criminal Court to defend a lady of the class which provided material for the divorce courts, and after he had spoken for two days, the judge was dissolved in tears, the jurors were locked in each other's arms, and Sir George Lewis was waiting outside to give him all the briefs he had. (Laughter.) What really happened was that the judge asked how long he had been called to the Bar, and the jury wondered what had brought such an ass into court. (Laughter.) In one of his (Lord Darling's) early experiences he was trying to defend a prisoner at the Old Bailey, but in spite of his brilliant efforts the sentence was five years. (Laughter.) Some time after he was in another case, and an independent witness went into the box. He obviously did not like me, and he answered my questions in a way I did not appreciate. I said to him "If you take my advice you will not answer questions in that tone of voice," whereupon he replied "I am not going to take your advice; I took it once, and went to prison for five years." (Laughter.)

Mr. CHARLES P. EELLS (U.S.A), also responded, and said that neither a common language nor a common literature provided a basis for Anglo-American solidarity. His own suggestion towards that end was this—when the original colonists of America emigrated from Britain they carried with them in their scanty luggage the common law of England, and their first enactment was the adaptation of that system to their commonwealth. When the later states sprung up in the west each in its turn made the common law of England the basis of its jurisprudence. These standards of right and wrong had prevailed, in theory at least, on each side of the Atlantic; and, in America, not alone among men of the Anglo-Saxon race, but among the strangers within their gates, English legal text-books, and volumes of English law reports would be found in every American Law Library. The decisions of English judges were cited as authority in every American Law Court; and the names of the great English jurists were household words with American lawyers. In the vast field of human effort the men of the two nations were united and in this agreement he found a solid foundation for Anglo-American solidarity. (Loud applause.)

Societies.

The Law Society.

FINAL EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Final Examiation held on the 13th and 14th June, 1927:—

James Pierce Almond, LL.B., Liverpool, Ambrose Erle Fuller Appelbe, B.A., LL.B., Cantab., Arthur Kenneth Assig, John Bartram Shoveller Attlee, William John Bailey, George Edward Baker, Harold Baldwin, Arthur Bantoft, John Sidney Barlow, B.A., LL.B., Cantab., John Alfred Crease Barradale, M.A., LL.B. Cantab., Thomas Ernest Chester Barratt, B.A., LL.B. Cantab., Leslie Norfolk Battersby, B.A., LL.B., Cantab., Geoffrey Phillips Beaumont, Humphrey Cochrane Belk, B.A., LL.B., Cantab., Reginald William Bell, LL.B. Liverpool, Eric Bellingham, LL.B. London, George Bellord, B.A. Oxon., Clifford Bennison, Alfred Woodroffe Benton, Christian Gerard Timperley Berridge, Thomas Geoffrey Seager Berry, B.A. Cantab., Harold Berth-Jones, Arthur Reginald Bewes, Jeannie Bryan Macdonald Babington Bird, B.A., LL.B. Cantab., Percy Harold Blackman, Tom Cuppage Bone, James Walker Booth, M.A., LL.B. Cantab., Joseph Trevor Booth, Mary Brittain, William Staley Brookes, LL.B. Sheffield, Guy Phipps Brutton, Constance Vera Champion, Christopher William Drewett Chaytor, B.A., LL.B. Cantab., Harold Chubb, LL.B. London, Richard James Clarke, Robert Arthur Clarke, Albert John Clarkson, Charles Frederick Rickards Cleaver, Cecil John Connelly, Wilfred Herbert Cook, B.A., LL.B. Cantab., George Bristow Cooke, B.A., LL.B. Cantab., Herbert Thomas Commin Cornish, James Patrick Crehan, John Fairfax Crowder, B.A., LL.B. Cantab., George Francis Darlow, B.A., LL.B. Cantab., Herbert Davies, William Wynn Davies, Reginald Lloyd Dawson, Samuel Dean, LL.D., LL.M., Liverpool, Robert Joicey Dickinson, B.A. Oxon., Augustus William Dickson, Thomas Tempest Dineen, Laurence Charles Dorman, B.A. Oxon., Richard Kenneth Drury, Stanley Dryden, Charles Kenneth Duthie, Frederick Vladimir Bradley Edge, B.A., LL.B., Cantab., Robert Humphrey Eggar, B.A. Oxon., Robert Nathaniel Eichholz, Eric John Wykeham Ellis, B.A. Oxon., Wallace Edgar Emmerson, Thomas Kingsley Evans, Eric Raymond Farr, Frank Curil Fildes, Howard Charles Fred Millard Fillmore, Sydney Straton Brocklebank Fowler B.A., LL.B. Cantab., John Earley Francis, B.A. Oxon., Raymond Eric Frearson, Joseph Leopold Freedman, B.A., LL.B. Cantab., Thomas Joseph Cuthbert Frost, Geoffrey Mervyn Gabb, Percy Alden Gascoin, LL.B. London, Basil Moxon Gautrey, Ernest William Gibson, B.A. Cantab., Wilfred Forster Gibson, B.A. Cantab., Adam Eric Gilfillan, Harry Gillings, Denis George Gilman, George Alfred Gleed, Joseph Rann Green, Frederick James Grimsdale, John Francis Guile, Donald John Hall, B.A. Cantab., Basil Hamer, B.A., LL.B. Cantab., Frederick Charles Hampshire, Stewart Hannay, Frank Harold Hargrove, B.A. Cantab., Leslie William Heeler, B.A. Birmingham, John Pearson Hetherington, Frank Beattie Heywood, Leonard Henry Dovetom Hodges, James Garfield Holt, B.A. Cantab., Charles Barstow Hutchinson, B.A. Oxon., Richard Meredith Jackson, B.A., LL.B., Cantab., Maurice William Jackson, Spenser Willan Jackson, Brian Sidney Jaquet, B.A., LL.B. Cantab., John Hulbert Johnson, David Llewelyn Jones, B.Sc. Wales, John Hughes Jones, LL.B. Wales, Richard Frederick Jones, William John Jones, Fredreick George Kelshaw, Arthur Lawrence Kershaw, William Sobieski Kildahl, Phyllis Newman Lawson, Wilfred Wilson Legge, Leslie Maurice Lever, LL.B. Leeds, Benjamin James Amphlett Lewis, Hugo Charles Lockyer, Ronald Long, Arthur John

McGahey, Walter Dugald Macpherson, M.A., LL.B. Cantab., Charles Albert Grantham Maddin, Ray Mainwaring Mainwaring, B.A. Oxon., Ronald James Stanley Martin, B.A. Oxon., Oliver Egerton Christopher Marton, Tom Wellington Menneer, John Leslie Messenger, B.A. Oxon., John Reginald Jackson Mitchell, George Morris, Henry Swinson Valentine Mossop, Eric Alston Mott, B.A. Oxon, Francis Joseph Reginald Mountain, Kenneth Howard Nalder, Jack Humphrey Nell, Arthur Douglas Page, Stanley George Palframan, Bernard Octavius Drew Palmer, Charles Richard Patterson, B.A. Oxon, Reginald Withers Payne, Noel Davis Peard, John Anthony Plowman, Ronald Polack, Alice Madge Irene Prentice, B.A., LL.B. Cantab., Hugh Wentworth Pritchard, B.A. Oxon., James Archibald Pritchard, William Herbert Rhodes, Arthur Westley Richards, David Llewelyn Richards, Norman Puleston Roberts, William Thornton Rudd, Archer Nelson Rule, Christopher Vincent Hendy Smith, LL.B. Leeds, Frederick Thomas Smith, Cyril Frederick Steed, Douglas Perrin Story, Richard Carless Swayne, James Ashton Sykes, Ernest Taberner, Geoffrey Lewis Taylor, John Albert Calthrop Taylor, M.A., LL.B. Cantab., Jack Clifford Thomas, Alfred Kaye Thompson, Alan Robert Thomspon, Theodore Leslie Thompson, Archibald Douglas Paxton Thomson, B.A., LL.B. Cantab., Alfred Bates Thorneloe, John Aldiss Tompkins, Thomas Roffey Tompkins, Fiennes Trotman, Reginald Henry Truman, Leonard Wrangel Underwood, B.A. Cantab., Harold Edward Henry Vardon, Edward Desmond Wainwright, B.A., LL.B. Cantab., Charles Richard Ward, Douglas Royn Ward, David Basil Harman Warner, B.A. Oxon., Charles John Webb, Jack Redmayne Welch, James Bailiff Williams, Walter James Philipps Williams, Charles Derek Williamson, B.A. Cantab., Cecil George Willoughby, M.A., B.C.L. Oxon., LL.B. London, Charles Thomas Winterton, Frank Noel Wood, Christopher Worsfold, Frederick Drummond Worthington, Arthur Ernest Wyeth.

No. of Candidates, 203. Passed, 179.

The Council of The Law Society have awarded the John Mackrell Prize, value about £13, to John Anthony Plowman, who served his Articles of Clerkship with Mr. John Tharp Plowman, of the firm of Messrs. Winter & Plowman, of London.

(To be continued.)

STUDENTSHIPS.

The Council, acting on the recommendation of the Legal Education Committee, have made the following award for 1927, of three studentships of the annual value of £40 each, enable for one year, but renewable at the discretion of thet Council :—

CLASS A (Candidates under 19 years of age).—Mr. George Alexander Grove (King Edward School, Birmingham, and the University of Birmingham); and Mr. John Henry Adeney Lang (Merchant Taylors School, and the Law Society's School of Law).

CLASS B (Articled clerks having not less than three years to serve).—Mr. James William Baldon (Westminster School, and the Law Society's School of Law). Highly commended in Class B—Mr. William Gordon Hiatt (Canford School and the University of Bristol).

Mr. Grove is articled with Mr. A. O. G. M. Grove, of Birmingham; and Mr. Baldon with Mr. C. S. P. Tufnell, of London.

By Order of the Council,
E. R. COOK,
1st July, 1927. Secretary.

Middle Temple.

Tuesday, the 28th ult., being the Grand Day of Trinity Term at Middle Temple, the Master Treasurer (A. Macmorran, Esq., M.A., K.C.) and the Masters of the Bench entertained at Dinner the following guests, viz.: The Rt. Hon. The Earl of Birkenhead (Secretary of State for India), The Rt. Hon. Lord Hewart (Lord Chief Justice of England), The Rt. Hon. Lord Hanworth (Master of the Rolls), The Rt. Hon. Sir Robert Borden, G.C.M.G., K.C. (formerly Premier of the Dominion of Canada), The Rt. Hon. Sir Adrian Knox, K.C.M.G., K.C. (Chief Justice of the Commonwealth of Australia), The Hon. Mr. Justice de Villiers (Appeal Court of South Africa), The Hon. Mr. Justice Van der Riet (Eastern District Court of South Africa), Sir Howard D'Egville, K.B.E. (Secretary, Empire Parliamentary Association), Sir Thomas Inskip, C.B.E., K.C., M.P. (Solicitor-General), The Hon. Sir David Gordon (M.L.C., South Australia), The Rev. The Master of the Temple, S. G. Raymond, Esq., K.C. (New Zealand), A. B. Shand, Esq., K.C. (New South Wales), F. Villeneuve-Smith, Esq., K.C. (South Australia), W. N. Tilley, Esq., K.C. (Canada), and The Rev. The Reader.

The Benchers present in addition to the Treasurer were The Rt. Hon. Viscount Mersey of Toxteth, His Honour Judge Ruegg, K.C., Sir W. E. Hume-Williams, Bart., K.B.E., K.C., M.P., The Rt. Hon. Lord Shaw of Dunfermline, The Rt. Hon. Viscount Dunedin, G.C.V.O., Mr. W. J. Waugh, K.C. (Recorder of Sheffield), The Hon. Mr. Justice Sankey, G.B.E., The Hon. Mr. Justice McCardie, Mr. Leslie De Gruyther, K.C., The Rt. Hon. Edward Shortt, K.C., Mr. St. John Gore Micklethwait, K.C. (Recorder of Reading), Mr. G. Bond, LL.D., Mr. Heber L. Hart, K.C., LL.D., The Hon. S. O. Henn-Collins, C.B.E., Mr. J. B. Matthews, K.C., Mr. Arthur M. Dunne, K.C., Mr. J. Bruce Williamson, Mr. Alexander Neilson, K.C., Mr. S. J. Bevan, K.C., Mr. A. M. Sullivan, K.C., and Mr. Thomas Artemus Jones, K.C.

Legal Notes and News.

Honours and Appointments.

The Right Hon. Sir ADRIAN KNOX, K.C.M.G., K.C., Chief Justice of the Commonwealth of Australia, has been elected an Honorary Bencher of the Inner Temple.

Mr. FREDERICK GUY STEVENS, Barrister-at-Law, has been appointed a Puisne Judge of the Supreme Court of the Straits Settlements.

The King, on the recommendation of the Home Secretary, has appointed Mr. HAROLD MCKENNA, Barrister-at-Law, to be a Metropolitan Police Magistrate to fill the vacancy caused by the resignation of Mr. Thomas Scanlan.

Mr. McKenna was called to the Bar by the Inner Temple in November, 1903, and joined the Oxford Circuit. Mr. Scanlan, who was recently reported to be lying ill in a nursing home, has sat as a Metropolitan Magistrate, principally at the South-Western Police Court, since 1924.

The Council of The Law Society have appointed Mr. ROBERT SEGAR, M.A., Fellow and Tutor in Law of Magdalen College, Oxford, Barrister-at-Law, as Tutor, and Mr. G. W. KEETON, M.A., LL.M., Reader in Law in the University of Hong Kong, as Assistant-Tutor, in the School of Law.

Mr. ERNEST H. CLEGG, Chief Assistant Solicitor in the office of the Town Clerk of Sheffield (Sir William E. Hart), has been appointed Town Clerk of Brighouse. Mr. Clegg was admitted in 1923.

Mr. H. C. SLIM, Assistant Solicitor in the office of Mr. Frank Chapman, Solicitor, the Town Clerk of Smethwick, has been appointed Deputy Town Clerk of that county borough. Mr. Slim was admitted in 1925.

Mr. J. J. R. DAY, formerly Town Clerk of Dartmouth and now Clerk to the Brentwood Urban District Council, to which latter position he was appointed early in the present year, is recommended for the appointment of Town Clerk of Georgetown, British Guiana, for which, we understand, he had applied before obtaining his present appointment.

Mr. G. V. SPOONER, Solicitor's Clerk, Barnet, has been appointed Clerk to the Barnet Rural District Council in succession to the late Mr. Henry William Poole, Solicitor, of that town.

Professional Announcement.

(2s. per line.)

Messrs. ROMAIN & ROMAIN, Solicitors, of 132, Seymour-place, Bryanston-square, W.1, announce that Mr. David A. Romain having retired from practice, the offices at 196, Bishopsgate, E.C. have been closed. All communications should in future be sent to the first-mentioned address or to 52, Baker-street, W.1.

Resignation.

Mr. G. M. Freeman, K.C., has resigned the chairmanship of the East Sussex Quarter Sessions—an appointment he has held for the past six years. Mr. Freeman was called to the Bar in 1874, and took silk in 1896.

Wills and Bequests.

Mr. John Broadfield Parkinson, solicitor, Manchester and Windermere, left estate of the gross value of £10,421.

Mr. Archibald John Puntan, solicitor, of Bishopston, Glam., formerly of Swansea, left estate of the gross value of £6,595.

Mr. Thomas Homer (89), solicitor, of The Limes, Cradley, Worcestershire, left estate of the gross value of £6,167.

Professional Partnerships Dissolved.

BERNARD HARTLEY RICHARDSON and WALTER GREENWOOD ROBERTSHAW, Solicitors, Brighouse, York (Bernard H. Richardson and Robertshaw), by mutual consent as from 5th April.

MIDLAND BANK LIMITED.

The Directors of the Midland Bank Limited announce an interim dividend for the half-year ended 30th June last, at the rate of 18 per cent. per annum, less income tax, payable 15th July. The dividend for the corresponding period of 1926 was at the same rate.

DINNER TO THE DANISH BAR.

His Majesty's Government entertained at dinner, at Lancaster House, St. James's, on the 28th ult., Judges and members of the Danish Bar. The Lord Chancellor (Viscount Cave) presided. Among those who accepted invitations were:—

The Danish Minister and Countess Ahlefeldt-Laurvig, Viscountess Cave, Judge Louis Carstens, The Hon. Sir Malcolm Macnaghten, Mme. Bentzon, Mr. Justice and Lady Tomlin, Judge Axel Olsen, Sir Douglas Hogg, Professor H. Munch-Petersen, Lord Merrivale, Judge A. Drachmann Bentzon, Sir John Anderson, Mr. Justice Hoff, Sir Claud and Lady Schuster, M. Kund E. Kundsen, Sir Ernest and Lady Wild, M. Gunnar Brix, Sir George Bonner, M. Aage Petersen, Sir Thomas Barnes, Dr. Vincent Naeser, M. Georg Ostenfeld, Sir Henry Payne, Mrs. Malkin, Mr. F. K. Kielberg, M. Hartvig Jacobsen, Mr. and Mrs. J. H. Helweg, Mme. Lyster, Mr. Brudenell Bruce, M. and Mme. E. Munch-Petersen, Mme. Naeser, Judge Tobin, M. G. Vohtz, Mr. J. Douglas Young, Mr. H. D. Roome, M. Kjeld Rordam, Miss Enid Rosser, M. C. E. Aagaard, Mr. H. W. Malkin, M. Fischer Moller, Mr. C. A. Coward, Mr. A. H. Coley, M. Chr. Holtet, Mr. M. L. Gwyer, Mme. Petersen, Judge Sturges, M. Helge Bech Bruun, Dr. R. E. Mortimer Wheeler, Mlle. Hoff, Mr. E. E. Beare, M. Emil Strobeck, M. H. K. Lyster, and Mr. Oskar Bendix.

SIXTY YEARS AT DOCTORS' COMMONS.

Mr. Benjamin Bates Bull, who died recently, at the age of eighty-one, worked for sixty-five years as Chief Clerk and Sealer at the Faculty Office of the Archbishop of Canterbury in Doctors' Commons, E.C. When he retired last July he had inscribed on parchment no less than 30,000 marriage licences, including nineteen for Royal personages. Among the Royal licences were those of the King and Queen, the Duke and Duchess of York, and Princess Mary, Viscountess Lascelles, and Viscount Lascelles. Mr. Bull disliked modern methods of lighting, and worked by candlelight even on the darkest day. In his early days he was a prominent amateur actor. He studied with Henry Marston and acted at many London theatres that have now been pulled down, including the old Park Theatre in Camden Town and St. Georges' Hall. He knew everybody of note in the theatrical world years ago, and was a devoted admirer of Henry Irving.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE.

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
M'nd'y July 11	Mr. More	Mr. Hicks Beach	Mr. Bloxam	Mr. Hicks Beach
Tuesday .. 12	Jolly	Bloxam	Hicks Beach	Bloxam
Wednesday 13	Ritchie	More	Bloxam	Hicks Beach
Thursday . 14	Synge	Jolly	Hicks Beach	Bloxam
Friday 15	Hicks Beach	Ritchie	Bloxam	Hicks Beach
Saturday .. 16	Bloxam	Synge	Hicks Beach	Bloxam

Date.	Mr. Justice Astbury.	Mr. Justice Clauson.	Mr. Justice Russell.	Mr. Justice Tomlin.
M'nd'y July 11	Mr. Ritchie	Mr. Synge	Mr. Jolly	Mr. More
Tuesday .. 12	Synge	Ritchie	More	Jolly
Wednesday 13	Ritchie	Synge	Jolly	More
Thursday . 14	Synge	Ritchie	More	Jolly
Friday 15	Ritchie	Synge	Jolly	More
Saturday .. 16	Synge	Ritchie	More	Jolly

THE MIDDLESEX HOSPITAL.

WHEN CALLED UPON TO ADVISE AS TO LEGACIES, PLEASE DO NOT FORGET THE CLAIMS OF THE MIDDLESEX HOSPITAL, WHICH IS URGENTLY IN NEED OF FUNDS FOR ITS HUMANE WORK.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement, Thursday, 14th July, 1927.

	Middle Price 6th July	Interest Yield. £ s. d.	Yield with Redemption. £ s. d.
English Government Securities.			
Consols 4% 1957 or after	84⅛xd	4 15 0	—
Consols 2½%	54¼	4 12 0	—
War Loan 5% 1929-47	100⅛	4 19 0	4 19 0
War Loan 4½% 1925-45	95⅝	4 14 6	4 17 0
War Loan 4% (Tax free) 1929-42	100⅞	3 19 0	3 19 6
Funding 4% Loan 1960-90	86	4 13 0	4 14 6
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	93	4 6 0	4 9 6
Conversion 4½% Loan 1940-44	96	4 13 6	4 16 6
Conversion 3½% Loan 1961	76	4 12 0	—
Local Loans 3% Stock 1921 or after	83½	4 14 6	—
Bank Stock	246½	4 18 0	—
India 4½% 1950-55	92⅜	4 17 6	5 1 0
India 3½%	70⅜	4 19 6	—
India 3%	60½	4 19 0	—
Sudan 4½% 1939-73	92¼xd	4 17 6	4 18 6
Sudan 4% 1974	84½	4 15 0	4 18 6
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	81	3 14 0	4 12 0
Colonial Securities.			
Canada 3% 1938	83¾	3 12 0	4 18 6
Cape of Good Hope 4% 1916-36	93	4 6 0	5 0 0
Cape of Good Hope 3½% 1929-49	80	4 8 6	5 0 6
Commonwealth of Australia 5% 1945-75	97¾	5 2 0	5 2 0
Gold Coast 4½% 1956	93¾	4 16 0	4 18 0
Jamaica 4½% 1941-71	92½	4 17 6	4 19 0
Natal 4% 1937	93	4 6 0	4 19 6
New South Wales 4½% 1935-45	90½	5 0 0	5 9 0
New South Wales 5% 1945-65	97	5 3 0	5 4 6
New Zealand 4½% 1945	95⅛	4 14 6	4 18 6
New Zealand 5% 1946	100⅜	4 19 6	5 0 0
Queensland 5% 1940-60	98½	5 2 0	5 3 6
South Africa 5% 1945-75	100¾	4 19 6	4 19 6
S. Australia 5% 1945-75	97	5 3 0	5 3 6
Tasmania 5% 1945-75	98⅞xd	5 1 0	5 1 6
Victoria 5% 1945-75	98½	5 1 6	5 3 0
W. Australia 5% 1945-75	97xd	5 3 0	5 3 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	62	4 17 0	—
Birmingham 5% 1946-56	103	4 17 6	4 18 0
Cardiff 5% 1945-65	101⅛	4 18 6	4 19 0
Croydon 3% 1940-60	69	4 7 6	5 0 0
Hull 3½% 1925-55	77xd	4 11 0	5 1 0
Liverpool 3½% on or after 1942 at option of Corpn.	73	4 16 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52¾	4 15 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	62¾	4 16 0	—
Manchester 3% on or after 1941	62¼xd	4 16 0	—
Metropolitan Water Board 3% 'A' 1963-2003	62¾	4 15 6	4 16 6
Metropolitan Water Board 3% 'B' 1934-2003	64¾	4 12 6	4 15 0
Middlesex C. C. 3½% 1927-47	81xd	4 6 6	4 18 0
Newcastle 3½% irredeemable	71	4 19 0	—
Nottingham 3% irredeemable	61½	4 17 6	—
Stockton 5% 1946-66	100xd	5 0 0	5 0 0
Wolverhampton 5% 1946-56	102	4 18 0	4 18 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	80½	4 19 6	—
Gt. Western Rly. 5% Rent Charge	99	5 1 0	—
Gt. Western Rly. 5% Preference	93½	5 7 0	—
L. North Eastern Rly. 4% Debenture	74⅜	5 7 6	—
L. North Eastern Rly. 4% Guaranteed	70½	5 13 0	—
L. North Eastern Rly. 4% 1st Preference	63½	6 6 0	—
L. Mid. & Scot. Rly. 4% Debenture	77½	5 3 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	75½	5 6 0	—
L. Mid. & Scot. Rly. 4% Preference	70½	5 13 6	—
Southern Railway 4% Debenture	77½	5 3 0	—
Southern Railway 5% Guaranteed	97	5 3 0	—
Southern Railway 5% Preference	90	5 11 0	—